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No. 66

House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 12, 2004.

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Cynthia L. Hale, Pastor, Ray of Hope Christian Church, Decatur, Georgia, offered the following prayer:

Gracious God, Creator, Redeemer and Sustainer of all life. In the words of the Psalmist, "When I consider Your heavens, the work of Your hands, the moon and the stars which You have set in place, what is man and woman that You are mindful of them? You made them a little lower than the heavenly beings. You made them ruler over the works of Your hands."

God, You have given each of the persons assembled in this place the ability and the authority to govern this great Nation of ours. You have positioned them to set policy for the provision and protection of the people. You have designated these men and women to make decisions for the continued liberty and justice for all.

Now, God, grant them wisdom. Give them the courage this day to govern with Your grace and for Your glory. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the

last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Washington (Mr. NETHERCUTT) come forward and lead the House in the Pledge of Allegiance.

Mr. NETHERCUTT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING THE REVEREND DR. CYNTHIA L. HALE, PASTOR, RAY OF HOPE CHRISTIAN CHURCH, DECATUR, GEORGIA

(Ms. MAJETTE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MAJETTE. Mr. Speaker, I am pleased this morning to welcome the Reverend Dr. Cynthia L. Hale, Senior Pastor of the Ray of Hope Christian Church in Decatur, Georgia. Pastor Hale is a 1979 graduate of Duke University's School of Divinity and she was ordained that same year. She has been the Pastor of the Ray of Hope Christian Church for 18 years. The church is known to all of us in my district affectionately as "The Ray."

Pastor Hale has been a good steward of the resources that God has entrusted to her. She has helped countless people be able to continue their lives and to grow in faith and strength. She has been a mentor and a friend to me over the years.

Mr. Speaker, I am truly blessed, we are all truly blessed, to have her here with us this morning.

APPRECIATING ALL COMPANIES, BOTH FOREIGN AND DOMESTIC, THAT WANT TO DO BUSINESS IN THE UNITED STATES

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, in April it was reported that employers added 288,000 jobs to the payroll, including 21,000 in the manufacturing sector. Progress is being made. The outsourcing-insourcing debate then has waned a little bit.

But I want to highlight Richland County in Illinois, 16,000 people in the community of Olney, that has 8,000. They actively pursue and ask for international business to come. In fact they are home for companies from Germany, Austria, Japan, Belgium, Switzerland and the Netherlands. These international companies located in rural Illinois provide high wages and great benefits to their citizens.

We should be appreciative of all companies that create jobs, both U.S. companies and international companies, that want to do business in the United States.

TIMING OF RED CROSS CONCERNS

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, reading the Wall Street Journal yesterday, which I read more than some suspect, I was told that the Red Cross had complained to Secretary of State Colin Powell about the prison abuses and torture and other embarrassments for months, which was a new revelation to me.

But today the Baltimore Sun says, and here it is, "Powell says Bush was informed of Red Cross concerns and that he had been fully informed in general terms about complaints made by

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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the Red Cross and others over ill-treatment of detainees in custody.”

Now, this is not about privates and corporals. And, by the way, the woman in charge of the camp said that she was put under pressure.

AL QAEDA CONNECTION, ZARQAWI, CONTINUES TO HARM AMERICA

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, yesterday the world was shocked by a video depicting the savage beheading of an American civilian by Iraq's al Qaeda connection, Abu Musab al Zarqawi.

It is time to put an end to the intentional denial that al Qaeda had no connection with Saddam Hussein. Secretary of State Colin Powell warned the U.N. in February 2003 that after the victory in Afghanistan, al Qaeda operatives set up new camps in Iraq, led by Osama bin Laden's lieutenant, Zarqawi, who was allowed free operation in Baghdad by Saddam Hussein.

Since then, Zarqawi has led al Qaeda within Iraq to bomb the U.N. headquarters in Baghdad and to attempt the killing last month of 80,000 in Jordan with chemical weapons. Additionally, in his letter to al Qaeda leadership, Zarqawi admitted to masterminding the daily attacks in Iraq.

We are fighting al Qaeda terrorists in Iraq as part of the global war on terror. Yet, despite our enemy's savagery, our brave troops will fight and win this war to protect American families.

In conclusion, may God bless our troops, and we will never forget September 11.

COVER THE UNINSURED WEEK

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, today I rise in support of the goals of Cover the Uninsured Week. In California, 1 out of every 5 of our uninsured population is a child under the age of 18.

This week, the House leadership has scheduled votes that would help big insurance companies. Instead, Congress should be taking action to ensure that no child has to skip needed health care checkups and is not left behind.

We should pass the Family Care Act to provide working families and children with health insurance. The bill could cover approximately 7.5 million low-income parents and improve health care coverage.

We should also pass the Health Care Equality and Accountability Act, H.R. 3459, which would both provide expanded health coverage and eliminate racial and ethnic health care disparities. More than one-third of Latinos and 19 percent of Asian Pacific islanders lack health insurance.

We must come together to combat our uninsured crisis. Together, we can make sure that every family has access to high quality and affordable health care.

PROVIDING THE SECURITY OF AFFORDABLE HEALTH INSURANCE

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, in response to the gentlewoman that just spoke, there is another alternative that we can talk about as well, because throughout the country, small business owners face a problem, because they cannot afford to offer their employees health insurance.

The Small Business Health Fairness Act, H.R. 4281, which we are going to debate this week, helps to resolve health care benefit concerns for small businesses and their employees. Through Association Health Plans, small businesses will have the ability to secure affordable health care contracts. Uninsured employees will receive the security of affordable health insurance.

Here is something that I think is significant: Out of the 44 million uninsured Americans, so called, about 25 million of them are people in small businesses, either the dependents or the employees themselves.

The price of health care benefits has risen by 12 percent this year alone. Escalating health care premiums makes it nearly impossible for small business owners to afford to offer health care benefits to their employees.

H.R. 4281 will make health insurance a reality for small businesses. I strongly urge my colleagues to support this bill.

PROVIDING HEALTH CARE FOR ALL AMERICANS

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, every American should be confident that whether they lose their job, change jobs, get sick or just grow old, they should be able to find affordable, reliable health care.

We know how to do this. I agree with the gentleman on the other side of the aisle. We have the ultimate association health plan available. We could make every American eligible for the Federal Employees Benefit Plan at their own expense. That would be the ultimate in the association health care plan. We can also make people over 55 eligible for Medicare. We can make low-income working families eligible for Medicaid.

We know how to provide health care coverage for the American people. If we are going to do this, we also know that we have to provide a fair, reasonably priced pharmaceutical product to these

same people. We cannot continue to allow the drug manufacturers to rob the American people.

COMMEMORATING THE 50TH ANNIVERSARY OF BROWN V. BOARD OF EDUCATION

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, next Monday, May 17, 2004, marks the 50th anniversary of the Supreme Court's decision in Brown versus the Board of Education. On this historic day, the Supreme Court issued a definitive interpretation of the 14th amendment to the Constitution, stating that the discriminatory nature of racial segregation is a violation of the 14th amendment.

Although 50 years have come and gone, this decision continues to have a profound effect upon our society. It has permanently altered the conventional social structure in traditionally segregated areas and has outlawed discrimination.

Although the celebration next Monday bears the name of Reverend Oliver Brown, it will be a celebration of all those who fought to rid our society of the practice of separate and unequal public schooling.

I would like to thank the Members of Congress who voted for the legislation which established the commission to commemorate the 50th anniversary of this historic decision, and I would also like to thank especially Cheryl Brown Henderson, the granddaughter of plaintiff Oliver Brown, along with the members of the Brown Commission, for the work in making this celebration a reality.

I am grateful for the small part I played. I encourage our colleagues to join us in celebration on this day.

CONGRESS SHIRKING ITS RESPONSIBILITY

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, this last month has been a hard month: Hard for our soldiers in Iraq as we lost more lives than any previous month; it was hard on the people of that troubled country; and it was hard on the American public as citizens of conscience and people who are footing the bill. It has also been hard on Congress.

I personally believe the Speaker and the chair of the key committees to be people of conscience, and they must be terribly embarrassed as the world sees what happens when Congress shirks its responsibility to set policy, control spending and provide oversight.

It is as sad as it is outrageous that Congress and the President of the United States find out at the same time as millions of people around the

world about the unconscionable abuses in Iraqi prisons.

Now, the President will have to settle with Donald Rumsfeld as to why he has been kept out of the loop, but we in Congress have only ourselves to blame if we continue to avoid being a constructive partner, making sure that these abuses stop.

ENCOURAGING THE RELEASE OF PHOTOGRAPHS OF IRAQI PRISONER ABUSE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, despite the horrendous acts of a few American soldiers at Abu Ghraib prison, we are winning the war in Iraq. We are investigating and punishing those among our own engaged in wrongdoing. And as the brutality and desperation of yesterday's beheading of an American attest, our enemies know they are losing.

While I support freedom for the good people of Iraq, I support President Bush and Secretary Rumsfeld, I respectfully encourage the administration to bring an end to the lurid parade of photographs leaking their way into the national media by immediately releasing all photographic records of abuse of prisoners by American personnel.

Abraham Lincoln said it best: "Give the people the facts, and the Republic will be saved." In this case, Mr. Speaker, the republic that we save may be that free and democratic republic of Iraq in the 21st century.

□ 1015

ASK QUESTIONS OR STUPID THINGS HAPPEN

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, since April 1, 42 days, the House has been in session 12 of those 42 days; and in that period of time, we have lost 171 of our fellow citizens, bringing the total to 772.

While that was happening, what has Congress done? We have named eight post offices, recognized the Garden Club of America, recognized the importance of music education, and authorized the use of the Capitol grounds for the Soap Box Derby. That is what Congress has done in the last 42 days, 12 days working; that is what we have done while we have lost loved ones in this country.

Our constituents are asking the whys and the hows of this war. They want us to get the answers. We have a constitutional responsibility, the checks and balances, to ask those questions. It is imperative that we do that.

President Kennedy once said, "To govern is to choose." We can name post

offices, or we can ask the hard questions about the direction of our Nation. We may even be able to do both.

MURDER OF NICK BERG

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, yesterday we were reminded of who the real enemies are in Iraq. A video was released showing the brutal murder of a young man from Pennsylvania, 26 years old, a small businessman who was there to help rebuild Iraq. I offer my deepest condolences to his family and friends, and I join with my colleagues to call for bringing these terrorists to justice.

The fact is, Nick Berg's murder comes from the same terrorist extremists as the September 11 attacks. It was not about revenge; it was about intimidation. They brutally murdered an innocent civilian on camera so that the world could see it and tremble. These terrorists will use any convenient excuse to take innocent life if they believe it will advance their agenda.

Mr. Speaker, yesterday's murder should not shake us. It should steel our resolve to do the right thing in Iraq, and it should remind us that there can be no negotiating with an enemy who hates freedom, despises human rights, and uses any excuse to brutally murder innocent civilians.

SUPPORT SALES TAX DEDUCTIBILITY

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Mr. Speaker, once again, the House appears to be in an all-tax-cuts-all-the-time mode all over again.

By listening to the talk coming from this body, one would want to believe that we really want tax fairness for all Americans. Last week we had the opportunity to amend a part of the Tax Code which unfairly penalizes residents of States with no local or State income tax, and we did not. Unfortunately, we did not get it right last week, but luckily we have another chance to fix the problem today.

I hope that my colleagues will support allowing sales-tax deductibility for residents of States with no sales or State or local income taxes so that the hard-working residents, like people in my State of Texas and many others, get the same benefits given to almost all other Americans. Should we not be looking for ways to create equity and fairness for all of our citizens and not always seemingly helping just a few?

Let us pass this sales-tax deductibility amendment and take a true step toward equity.

MEDICARE AND PRESCRIPTION DRUG CARDS

(Mr. FOLEY asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, when Senator CHUCK HAGEL and I drafted the drug discount card 3 years ago, we realized at the time that it would be a very important tool for seniors to save money on their prescription drugs. It is the reason so many people join Costco, or Price Club, and so many millions of America's seniors have joined AARP, for discounts, because they save money. It is simple, it is effective, and last Monday, on May 3, when we rolled out the drug discount card as part of the Medicare legislation, over 400,000 seniors called the 1-800 Medicare number to inquire about the plan.

Interestingly enough, almost every national chain, be they a grocery store or a pharmacy, advertised that they would be offering a drug discount card. It is simple. It is easy. It is convenient. And it allows seniors the choices that they deserve: to buy from their local pharmacist, their drugstore, their Costco, their Price Club, you name it.

Medicare should be simple. Seniors 65 and older deserve discounts on their drug cards, their drug and pharmaceutical usage. They are receiving it under this legislation.

SEND THE PRESIDENT BACK TO TEXAS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, with everything going wrong for our war President in Iraq, it would be easy to overlook another tragedy confronting the United States.

Almost 44 million people are uninsured in this country; they go without health care and hope they do not get sick. The vast majority of these people come from families where one person works full-time.

By our actions, we are forcing Americans to choose between food and health care. That is not a choice. That is a cruel reality perpetuated by this administration.

The administration pretends every American has health care because there are emergency rooms, and we have a cabinet Secretary who says so, knowingly misleading the American people, and we wonder why the world questions our moral leadership.

Almost 44 million Americans do not have health care, and we can change that. Bills have been brought before the Congress for years, but the administration ignores them. We are going to deal with two useless ones today.

Every other industrialized country offers affordable health care except us. We could change it today, but we will not under this administration. We are going to have to have an election and send the President back to Texas.

LOWERING THE NUMBER OF THE UNINSURED

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I hesitate to disagree with my fellow representative; but, Mr. Speaker, the President's program and the House program this week is going to find a solution for the uninsured for health care. Small businesses are dropping health plans because they cannot afford it.

This week, the House is going to take up the Small Business Health Fairness Act, and it will allow small businesses that would otherwise be unable to afford health insurance to join together to form association health plans which, by the way, is one of those things that we have had out there for a long time and needs to be passed. It will insure more people with quality care at lower rates.

Another important step today will be lowering the cost of health care by putting consumers in the driver's seat through health savings plans. Those plans give more people options when it comes to their health insurance, and they are a great part of lowering the cost of health care and helping to lower the number of uninsured.

Mr. Speaker, we are moving forward in this Congress, and we are going to move forward on these issues today for a better America.

LIVING UP TO THE PROMISE OF EDUCATION FUNDING

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on the Bush administration and this Congress to live up to its promise on education.

Despite the White House's media event this week, the administration's own budget request for next year would cut \$9.4 billion from the President's own No Child Left Behind Act. In the first 3 years under this new law, this administration has shorted America's schools by \$27 billion. That is a pretty poor record and a failure of leadership.

This week, the White House claimed that the States have billions of dollars of unspent Federal education funds, as if there is a stack of money sitting on some bureaucrat's shelf. As the only former State school chief serving in this Congress, I can tell my colleagues that nothing could be farther from the truth. School officials are struggling to fill countless unmet needs for funding, and this administration's failure to provide our needed education funds is a crushing burden.

Democrats have a better way. I have introduced legislation to require full funding for No Child Left Behind. Democrats support school construction

and helping local leaders build new schools, relieve overcrowding, reduce class sizes, and improve security. We must make sure every public school works to educate our children to meet the needs of the 21st century.

In conclusion, Mr. Speaker, Congress needs to live up to its promises made on education.

WE NEED NATIONAL UNITY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, the Democrats are proud of saying, which they say often, that they oppose the war, but support the troops. That is kind of like saying the tank is not empty, but the car is out of gas. It just does not make any sense. How do you support the troops if you are opposed to what they are doing?

Of course, then again, the statements by their party leader said, I voted "yes" before I voted "no" on the supplemental appropriations bill that would have given the troops the armor and the ammunition and the food and the supplies they need, but that is Democrat thinking.

When the statue of Saddam Hussein was being pulled down and celebrated, the gentlewoman from California (Ms. PELOSI) said, well, we could have pulled that statue down for a lot less money. I am sure the U.N. would have gotten around to it eventually through their, what, another resolution? We did 17; maybe one more resolution and the statue would have come on down.

Mr. Speaker, winning a war is not easy, and when you have leading Democrats saying the war is unwinnable, it sends a very bad signal to the troops whom they allege to support. That is not what we need.

Right now what we need is unity, national unity, getting behind the cause, getting behind the soldier in the foxhole. Let us think of him and put politics aside.

PROVIDING HEALTH CARE FOR ALL AMERICANS

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, so much is in the news these days, it is hard for us to keep sight of any one thing; but as a great Nation, we ought to be able to do more than one thing at one time. One of the things we ought to be doing is taking care of our people in this country when it comes to delivering to them health care insurance.

We talk every day about how there are 44 million Americans who are uninsured, but what are we actually doing about it?

I often hear from my constituents who say to me, Congressman, if you

had to worry about your health insurance the way we have to worry about our health insurance every single day of the week, if you had to worry about your child the way we have to worry about our children, you would have health insurance for all Americans tomorrow.

Yet, we have Members of Congress who are coming here on the floor and saying that they are for health insurance. They say they are not for government insurance, no, no, they are against that, and yet name me one Member of Congress that does not sign up for the government-paid program in this Congress.

That is the hypocrisy we see in this Congress, not a Congress that is actually interested in the people's health care, but only their own.

DEPARTMENT OF JUSTICE INVESTIGATION OF THE MURDER OF EMMETT TILL

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, 2 days ago, the Department of Justice announced that it would be forming a partnership with the State of Mississippi to investigate the 1955 murder of 14-year-old Emmett Till. As I heard the news, two thoughts ran through my mind. On the one hand, as the Member of Congress who introduced a resolution, a bipartisan resolution calling upon the Justice Department to investigate Emmett's murder, I feel a sense of relief. On the other hand, four words come to my mind: it is about time.

Mr. Speaker, many of us regard the murder of Emmett Till and the subsequent sham Jim Crow trial that acquitted Emmett's murderers as a mockery, as a miscarriage of justice, and as the single motivational spark for the civil rights movement. Young Emmett's savage murder and his open funeral casket made international news, and it galvanized African Americans and others interested in the cause of civil rights to take matters into their own hands and to demand basic human rights to which all citizens are entitled.

Mr. Speaker, I believe that now maybe Ms. Till-Mobley and Emmett Till can begin to rest in peace.

GIVE SENIORS THE HEALTH CARE BENEFITS THEY DESERVE

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I rise this morning, after having listened to Washington Journal, wherein the head of the Medicare-Medicaid program said, seniors are now, in fact, in a program with this discount drug card where they can pool their resources and get lower prices for their drugs.

If that is what we are doing with the discount drug card, why, in fact, did the legislation itself not allow the Secretary of Health and Human Services to seek best prices on prescription drugs for seniors?

I say, as we talk about covering the uninsured this week, we ought to be covering our seniors. They ought to have a prescription drug benefit that gives them one card without all of this complication where they have to ruffle through cards, ruffle through the Internet when they do not even have access to be able to determine what is the best way for them to get their prescription drugs.

Cover seniors. Give them the benefit they have worked for; give them the benefit they deserve.

HEALTHY TROOPS ACT

(Mr. BISHOP of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP of Georgia. Mr. Speaker, as I speak today, more than 170,000 of our servicemen and -women are serving in harm's way in Iraq and Afghanistan.

□ 1030

We are grateful for their service. We owe these brave men and women the best that we have to offer. At a minimum, we owe them what they were promised. I am talking about medical exams before and after we send them into combat.

A 1997 law requires the DOD to perform comprehensive pre- and post-deployment medical examinations on all deployed troops, including National Guard and Reservists. DOD has unilaterally decided to define these exams not as was intended, as a hand's-on examination by a doctor, but as a self-administered survey to determine if a service member is fit for combat or if he or she suffered as a result of war.

It is beyond irresponsible to base the health of our troops on their individual ability to self-diagnose. Therefore, today, I am introducing legislation to require the Department of Defense to comply with the 1997 law and guarantee each of our men and women will receive an actual clinical examination before and after they are deployed.

Today, I request my colleagues to join me and support the Healthy Troops Act. We owe our troops that much.

MEDICARE

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute.)

Ms. PRYCE of Ohio. Mr. Speaker, beginning May 3, seniors across the country can take the first steps towards a much-needed prescription drug benefit when they enroll in the new Medicare prescription drug discount card.

The plan gives seniors the power of choice. Seniors will select from a host

of prescription discount drug cards and choose the best option suited to their very own needs. On average, seniors will save 10 to 25 percent on their prescriptions.

Not only that, but choice encourages competition. Private companies will be making their prices available for seniors to compare. This, in turn, will foster new, lower prices in an effort to secure seniors' business. We already see this happening. By giving the seniors the choices they need, we also give them lower prices.

Mr. Speaker, the Medicare prescription drug coverage card is long overdue. I am proud of Republicans for providing a viable solution to America's seniors, and I encourage seniors across the country to take advantage of these added benefits.

EXTEND UNEMPLOYMENT BENEFITS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, last week President Bush came through my State, the State of Ohio, in a bus trip to argue and defend his economic policies which have inflicted great damage on my State.

We have lost, since President Bush took office, 177,000 manufacturing jobs. One out of every six manufacturing jobs in Ohio has simply disappeared since President Bush took office. We have lost 200 jobs every single day of the Bush administration, and the President's answer is more tax cuts for the rich, hoping it trickles down and creates some jobs. That has not worked.

His other answer is more trade agreements like NAFTA, which frankly have shifted all too many jobs to China and Mexico.

Instead, Congress should extend the unemployment benefits for those workers who are trying to find jobs, 50,000 in Ohio, a million across the country, who are trying to find jobs, who have lost their jobs.

Extend unemployment benefits and pass the Crane-Rangel bipartisan bill which will give incentives to companies that manufacture in this country, rather than to give incentives and tax breaks to the President's biggest contributors, those corporations which shift jobs overseas.

OUTRAGE AND DISAPPOINTMENT OVER CRISIS IN IRAQ

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, I rise to express my outrage and disappointment over the crisis in Iraq.

I must start by condemning, in the strongest possible terms, the brutal decapitation of Nicholas Berg. The act was unconscionable, and I join all of my colleagues in sending my deepest

sympathies to his family and loved ones.

What kind of climate allows for such unbelievable, gruesome acts? What kind of climate are we creating with the abuses at Abu Ghraib?

Secretary Rumsfeld has dismissed the Geneva Convention. That sends the wrong message. That message clearly, however, stuck.

The horrifying photographs of the abuses in Abu Ghraib are symptoms of a much larger failure of leadership.

Earlier this week, President Bush said that Secretary Rumsfeld is doing a superb job. Of course, that is the same President who communicated that the mission in Iraq was accomplished over 12 months and 500 American lives ago.

Nothing is superb about this situation, and little has been accomplished. The buck stops with the Commander in Chief, and so does the responsibility for the disaster we now face.

PROVIDING FOR CONSIDERATION OF H.R. 4279, PROVIDING FOR DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS; H.R. 4280, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2004; AND H.R. 4281, SMALL BUSINESS HEALTH FAIRNESS ACT OF 2004

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 638 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 638

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4279) to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution, if offered by Representative Rangel of New York or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4280) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening

motion except: (1) one hour of debate on the bill, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit.

SEC. 3. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4281) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; (2) the amendment in the nature of a substitute printed in part B of the report of the Committee on Rules, if offered by Representative Kind of Wisconsin or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 4. (a) In the engrossment of H.R. 4279, the Clerk shall—

(1) await the disposition of H.R. 4280 and H.R. 4281;

(2) add the respective texts of H.R. 4280 and H.R. 4281, as passed by the House, as new matter at the end of H.R. 4279;

(3) conform the title of H.R. 4279 to reflect the addition of the text of H.R. 4280 or H.R. 4281 to the engrossment;

(4) assign appropriate designations to provisions within the engrossment; and

(5) conform provisions for short titles within the engrossment.

(b) Upon the addition of the text of H.R. 4280 or H.R. 4281 to the engrossment of H.R. 4279, H.R. 4280 or H.R. 4281 (as the case may be) shall be laid on the table.

(c) If H.R. 4279 is disposed of without reaching the stage of engrossment as contemplated in subsection (a), H.R. 4280 shall be treated in the manner specified for H.R. 4279 in subsections (a) and (b), and only H.R. 4281 shall be laid on the table.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my colleague and friend, the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 638 provides for separate consideration of three different measures. The rule provides that when these measures are agreed to, each will be engrossed as one bill and sent to the other body.

Mr. Speaker, this week communities across this country are participating in activities associated with Cover the Uninsured Week. Why? Well, because almost 44 million Americans have zero health insurance.

These 44 million Americans live in sleepy towns and bustling towns all

across America in each and every one of our districts. They are children and adults. They are families. The majority are hardworking men and women just trying to make a living, provide for their families and offer their children opportunities they may never have had.

Yet nearly 44 million of our constituents are living every day without health insurance coverage. They are living without the security of knowing that they have a family doctor to call upon when they are sick and when it comes to time for their annual check-up. They are living without the security of knowing that when their child is ill, whether it is just a bad bug or a life-threatening ailment, they can access emergency care or see a specialist.

Without a doubt, the major reason people do not have health insurance is because they simply cannot afford it. In fact, 71 percent of the uninsured forego health insurance because of the cost.

As I have come to find, for every 1 percent increase in health insurance premiums, 300,000 more individuals go without health insurance. Whether in the halls of Congress, at the Washington think tanks, among not-for-profit organizations, in the boardrooms of businesses or at the corner coffee shops, everyone is talking about what they believe is the remedy to one of the toughest questions ever asked: How do we stop sky-rocketing health insurance costs and get more people insured?

Quite frankly, I think we have talked long enough. Mr. Speaker, it is time we place on the table the best market-based solutions to provide more Americans with access to quality and affordable health care. So here we are.

Today and tomorrow, this House will debate and consider three legislative solutions. These steps in the right direction will address this larger challenge by focusing on the three major pieces to the puzzle: access, quality and affordability.

The rule we are debating today will allow us to consider legislation to improve upon and strengthen flexible spending accounts, address the sky-rocketing costs of medical liability insurance, and allow small businesses to join together through association health plans.

As I begin to talk in greater detail about each of these initiatives, they may sound rather familiar to my colleagues and to those watching C-SPAN this morning. That is because the House has already considered each of these initiatives in one way, shape or form already, but so far they are going nowhere in the other body. So let us give them one more opportunity.

The first part of our health security plan will improve upon and strengthen flexible spending accounts or FSAs. FSAs allow workers to put money from their paychecks into an account, tax free, to pay for health care expenses. Employees spend this money on health services, giving them responsibility

over their own health care decisions and spending.

While FSAs are a great concept and have worked well under current law, the money contributed by employees have actually forfeited to the employer at the end of the year if it is not used. That means use it or lose it.

Our plan would allow up to \$500 of that money to be carried over into the following year. If an employee gets to keep \$500 in unused money, they will have a greater incentive to make wise decisions about their spending.

Mr. Speaker, we see a barrier standing in the way of access to quality and affordable health care so we are trying to knock it down. It is a solution.

In the second part of our plan, we will revisit a critical initiative to address a growing and dangerous problem in our legal system that impacts each and every one of us, if not today, then tomorrow or in the future. I am talking about our medical liability system, a system that must be reformed if health care in America is to remain affordable.

The medical liability crisis in America is virtually everywhere, but one of the places that we are seeing the most frightening and tangible effects of this crisis is in the area of prenatal care and delivery. This crisis is turning the very necessary treatment of prenatal care into a luxury, sometimes totally unavailable to far too many women.

□ 1045

It is estimated that about one in 10 obstetricians nationwide have actually stopped delivering babies. The crisis is most acute in rural areas where obstetricians are already in short supply. In my State of Ohio, professional liability insurance premiums have increased by 60 percent in the past 2 years. Sixty percent. According to a recent survey, more than 58 percent of responding Ohio OB-GYNs have been forced to make changes to their practice, such as quitting obstetrics all together, retiring, or relocating because of the unaffordability and unavailability of medical liability insurance. Fifty-eight percent of Ohio's obstetricians.

These statistics reflect the reality of real people in our cities and towns who are cutting back their practices or closing up all together. Just last month, an article ran in my local paper about a baby doctor in Columbus, Ohio, facing the prospect of a third year in which he and his OB-GYN partners have seen their malpractice insurance rise by 40 percent or more. He is leaving his practice to teach residents at the local hospital. His two other partners are leaving too, one to an early retirement and the other to Utah, where she will not have to pay malpractice premiums as large as the ones in Ohio. They say they do not have a choice, they have to leave. Together, just this one practice will leave 4,500 patients looking for new doctors. That is 4,500 women who have relied on these talented doctors for years, in just this single practice, with no one to turn to.

One of these women is 7 months pregnant with her fourth child. At 7 months along, she is looking for another doctor to deliver her baby.

This example is not uncommon to my State. It is not only affecting the doctors who currently practice, but it is affecting future doctors and patients. Recently, the chairman of an OB-GYN residency department in Ohio said he is even unable to train future OB-GYNs. He said that due to high liability premiums, it is difficult to find faculty to teach obstetrics residents. When counseling his students, he encourages them to still choose obstetrics as a profession, but now he offers a warning: just pick the right State, a State with good medical liability reforms. He also said in the past 2 years not a single one of his OB-GYN residents set up practice in Ohio.

The strides our country has made in reducing maternal and infant mortality rates through quality prenatal care are now being jeopardized. Across America, too many expectant moms are foregoing essential prenatal care, and they are asking, who will deliver my baby? I am concerned that without a change, the future of pregnant women's health is in serious jeopardy.

The American people are fed up with abusive personal injury practices, aggravating frivolous lawsuits, and a health care system that is getting more expensive and less accessible as a result. That is why we are here today. That is why we must pass this important initiative. The Congressional Budget Office estimates that when our plan is enacted, premiums for medical malpractice insurance ultimately would be an average of 25 to 30 percent less than they are now.

Mr. Speaker, we see a barrier standing in the way of access to quality and affordability in health care, so we are trying to knock it down. It is a solution.

And the third piece of our puzzle will help address skyrocketing health care costs where they hurt the most, small businesses. When you consider that small businesses employ 50 percent of employees across our country, it is troubling to learn that 60 percent of the uninsured work for small businesses. They are uninsured because small business owners cannot afford to pay the cost of health insurance for their workers. The Small Business Health Fairness Act brings the benefits enjoyed by corporate America to these small businesses.

This important initiative will allow small businesses to create association health plans, or AHPs. AHPs will enable small businesses to join together through existing trade associations to purchase health insurance for their workers at a lower cost than what is available to them now. It is the whole-sale strength-in-numbers approach that will allow these groups of small businesses to band together to negotiate for lower prices on health insurance than individual employees could secure on their own.

AHPs will save small businesses an average of 13 percent on their employee health care costs, which means more small business employees will have access to affordable health care coverage. And there is no question that 13 percent will be better spent by employers expanding their businesses by hiring unemployed Americans.

Mr. Speaker, once again we see a barrier stand in the way of access to quality and affordable health care, so we are trying to knock it down. Once again, it is a solution.

We have laid our common-sense solutions on the table, and now it is time to put them to work. I urge my colleagues to join me in implementing these critical initiatives that will help control the cost of health care in this country.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, two wrongs do not make a right, and three wrongs do not make a right, and passing bad legislation a second and third time will not make it a good bill. And I do not believe the Senate is going to like it a bit better. As a matter of fact, if the problem is the United States Senate, the other body, it would seem to me that we could take the bill over to the other body and find out exactly what the problem is and not take the time of the House over and over passing a bill that will go nowhere.

Last year, the House considered and passed the legislation that is identical to two of the bills considered under the rule, and I do not believe the people of this great Nation sent us here to change the number on a bill and pass it again during the same Congress.

Instead of playing these legislative games, we should be working on the grave issues that face this country. Americans are out of work, the Federal deficit is reaching all-time highs, American troops are in even greater danger in Iraq, the serious abuses of Iraqi prisoners and the failure to find weapons of mass destruction in Iraq should be aggressively investigated, and our hard-earned reputation and relationships throughout the world are in a shambles. So why, Mr. Speaker, are we on the floor of the people's House doing the same thing we did last year?

Why are we wasting valuable time reconsidering the bills that were passed and sent to the other body? The bills do nothing to help the more than 40 million uninsured Americans. It is shameful, with so many issues facing this Nation, that so many pieces of good legislation languish while we waste valuable floor time on bills that have already been passed and are not expired.

Why are we not considering bipartisan legislation to expand access to preventive health care services and to education programs that help to reduce unintended pregnancies, reduce infec-

tions of sexually transmitted diseases? And why are we not considering legislation that would allow children of deployed servicemembers to remain at their public schools in the event of a temporary residences change? Why do we not consider legislation to keep law enforcement uniforms out of the hands of criminals and terrorists? Why are we not on the floor debating and passing important bipartisan genetic non-discrimination legislation?

This replay game is not even an effort to improve the earlier work. The bills are not new and improved. Last year's medical malpractice legislation was considered under a closed rule, and this year the same malpractice legislation is subject to a closed rule. In the Committee on Rules hearing on each of the medical malpractice bills, Democrats offered a total of 39 amendments. Zero were made in order. Last year, the rule on the association health plans, the AHP bill, was restrictive, allowing only one amendment. This year, the same AHP bill with a new number is subject to a restrictive rule and again only one amendment is made in order.

I make the point again, Mr. Speaker, there is no change in the bill that has already passed the House.

Mr. Speaker, it does not help the millions of uninsured Americans at all. The wealthy are able to take advantage of the health savings accounts, but the poor are not. The uninsured will continue to be the uninsured.

H.R. 4281 suffers from the same fatal maladies as last year's bill creating the AHPs. The Congressional Budget Office found that under this proposal, now this is very important, the Congressional Budget Office found that under the proposal passed that the premiums would increase for 80 percent of workers in small firms, and that 100,000 of the sickest workers would lose coverage all together.

The bill would eliminate the protection of over 1,000 State consumer protection laws and vital State oversight. AHPs are likely to destabilize the health insurance market. Over 850 organizations oppose this legislation, including the National Governors' Association, the National Conference of State Legislators, and the National Association of Insurance Commissioners.

The cure offered by the same medical malpractice bill is worse than the disease. Just like last year's bill, the bill ignores the major player in rising malpractice insurance premiums: the insurance corporations. Why we do that, I do not know; but they are continually left out of this equation. Proponents want to blame the jury awards for rising insurance premiums, but a study by Americans for Insurance Reform reported that rising insurance premiums are in no way tied to jury awards.

Nothing in the bill requires the insurance corporations to lower premiums for medical malpractice insurance. Nothing in this bill requires the insurance companies to pass along to the physicians any savings the corporations might gain from this legislation.

And, disappointingly, nothing in this bill gets rid of incompetent doctors.

Statistics say that 5 percent of doctors are responsible for 54 percent of all medical malpractice claims paid. Logic cries out that those 5 percent of doctors be dealt with. Now, this legislation punishes injured patients with valuable claims against negligent or reckless physicians and allows repeatedly reckless doctors to continue to practice medicine. We should weed out the 5 percent of physicians causing most of the harm and who force the insurance to pay again and again for their mistakes.

We should stop playing games and consider legislation that will really help patients and that will really aid the doctors in providing quality health care. What we need is a reasonable regulation of the insurance industry, aggressive removal of bad doctors, and affordable prescription drugs.

Mr. Speaker, my concern goes beyond this obvious waste of time and resources and the poor substance of these three bills. Once again, the House is denied the opportunity to engage in full and open debate. Members are being muzzled. This abuse of process is becoming the norm rather than the exception.

Excluding H. Res. 638, the Committee on Rules has produced 22 rules this year: one open rule, 14 restrictive, five closed, and two procedurals. Debate is narrowed and stifled. Amendments and policy alternatives routinely are made out of order and not allowed on the floor. The body is elected to deliberate and debate, but the process is becoming much less democratic and much less deliberative.

This abuse of power and process harms this institution and does nothing to help the over 40 million Americans without health care insurance. Reconsideration and repassage of these bills is a meaningless exhibition of political theater, and I urge my colleagues to vote "no" on this rule so the House can get down to some serious work on behalf of the American people.

I must also say, Mr. Speaker, that I am particularly aggrieved at the portion of this bill that allows the pharmaceutical companies and the producers of medical devices to get off without being sued.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO), who has such a passion for health care concerns for her constituents.

Mrs. CAPITO. Mr. Speaker, I wish to speak about the medical liability reform bill.

Being from a State like West Virginia, we have been in crisis for many years, and I am exceedingly frustrated that we are not able to pass this bill and get it to the President for signature. We have passed this bill seven times, while our colleagues in the

other Chamber have not acted on this. As a result, we are a Nation faced with torts gone wild.

Mr. Speaker, the medical liability crisis our Nation is faced with is not a recent development. It has been an ever-present problem of varying degrees over the last 3 decades. Some States, like California, have been proactive and enacted tort reforms 3 decades ago. The California reforms, commonly referred to as MICRA, resulted in significantly limiting the increase in medical liability premiums as compared to the rest of the Nation.

The other States' premiums have risen over three times as much as those in California. Doctors are retiring, moving, and throwing up their hands in frustration across this land. Access, affordability, and quality of our health care is at stake.

Mr. Speaker, some State legislatures have acted recently to change their respective tort law system for medical liability claims. I am proud to say my own State of West Virginia has been a leader in this. However, this much-needed reform is now vulnerable to judicial review and can be ruled unconstitutional.

Other States, like Pennsylvania, are specifically prohibited by their State constitution from considering such reforms. Mr. Speaker, this is why a Federal reform is so desperately needed. This reform will defer to State tort law where it is present, but will serve as a backstop for States where the respective State supreme court rules against the new laws.

□ 1100

Mr. Speaker, it is time to take control of the health care costs that are spiraling out of control due to a legal system gone wild. Our Nation's health care is at risk.

Ms. SLAUGHTER. Mr. Speaker, I yield 6½ minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman for yielding me this time. I am almost a little embarrassed to be here today. This country is dealing with serious problems in Iraq, this country is dealing with serious unemployment problems. In Ohio, we have lost 1 out of 6 manufacturing jobs. This country is facing incredible confusion with the new Medicare bill and seniors are sorting through 50 Medicare cards to get a 10 or 15 percent discount while drug prices go up 15 or 20 percent a year, yet we are here today to debate issues which have already passed in the House and bills that clearly will not make a dent in the problem of the uninsured, the 40 some million uninsured.

Instead of debating proven solutions, solutions that we know will work, but solutions that just might, they just might hurt the drug industry and the insurance industry, they might be bills the insurance companies do not like, instead of working on bills that expand access to health insurance, the Republican leadership has chosen to pat itself

on the back. They are frittering away the Cover the Uninsured Week by reconsidering bills which have already passed this House, bills that cater to the insurance industry, some of the biggest contributors to President Bush and the Republican Party, bills that give away the Federal Treasury to the drug industry, industries that give tens of millions of dollars to Republican leadership and to President Bush, and bills that help the HMO industry by sheltering them from liability.

These bills will not necessarily reduce the number of uninsured, but we know they will undermine hard-fought State insurance laws, they will cover some small number of employers at the expense of others, they will provide tax shelters to people who already have coverage, and they will perpetuate the type of high-deductible coverage that actually discourages people from seeking preventive care.

Republican leadership will spend this week, Cover the Uninsured Week, trying to cull out the uninsured issue so they can hand out more tax breaks to their HMO and insurance companies and prescription drug company contributors and butter up more of their campaign contributors.

The President's budget does not spend a dime on the uninsured, but it will cut \$24 million from the Medicaid program, clearly a program that works and which has helped millions of America's elderly and poor families.

The President's plan will increase the number of uninsured. My Republican colleagues would also cut the Medicaid program by billions, stripping health insurance coverage from the most vulnerable among us.

So let me see, the Republican bills protect the drug companies and the HMOs from harm they cause their patients, they destabilize the entire small group insurance market to buck State insurance laws, and they give tax breaks to the already insured. I am sure none of this has anything to do with the fact this is an election year, President Bush is out raising \$200 million, Republican leadership is trying to equal that amount of money, and so much of it comes from the drug industry, the insurance industry and the HMOs.

Now, this is my Republican friend's response to the fact that 43 million people in this country are uninsured. It is outrageous that we are voting for a second time on these issues. It is not just futile; frankly, it is shameful.

The other side of the aisle were talking about the malpractice crisis for physicians which is very real in many places. The gentlewoman from New York said this bill has liability protections, not just helping the doctors but for the drug industry?

Ms. SLAUGHTER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentlewoman from New York.

Ms. SLAUGHTER. Not only for the drug industry, Mr. Speaker, but for the

people who manufacture medical devices. I know that is hard to believe, given that the drug companies just cleaned up from the Medicare bill passed here, but they are indemnified in this bill if the FDA has approved what they are doing.

Mr. Speaker, this is the same FDA that just last week threw science overboard and declined to approve a drug that has been found safe in 36 countries and by 24 of 29 scientists that studied it for the FDA. I do not trust the FDA anymore. But the FDA gives it approval, and then says citizens will have no recourse.

Mr. BROWN of Ohio. So to make sure I understand this, the FDA, the same FDA that has begun to throw overboard science, the same FDA that is clamping down on Americans going to Canada for less expensive drugs, the same FDA that approves prescription drugs, if they approve them, this FDA which is way too controlled by the drug industry, which is controlled and influenced by the drug industry, if they approve a new drug, even if that drug is found to be unsafe and injures hundreds of thousands of people, there is no liability? There is no way to bring suit?

Ms. SLAUGHTER. Mr. Speaker, if the gentleman would continue to yield, there is no punitive damage; none. In addition to that, just last week it was reported that science in the United States is falling considerably behind. We are no longer the leaders. This is the same leading by this FDA. I am very sorry to see that in this bill, and I believe most Americans will not approve it being in this bill. Frankly, I hope the Senate will again refuse to take it up.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, buttressed by our colleagues in the other body who are holding all these bills hostages, certainly they would like to have us give up, but when 58 percent of the OB-GYNs in Ohio are changing or leaving their practices, it is exactly the right time to turn up heat on these bills, and that is exactly what we are doing.

Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am appalled at some of the rhetoric going on around here. The FDA is doing a good job. The FDA is controlling drugs. I have seen drugs out of Canada that are not good, so I think they are doing a good job.

Mr. Speaker, I want to say I am here today to support the rule for H.R. 4280, the Small Business Health Fairness Act. The state of health care in America is reaching a crisis level. Costs continue to escalate annually at unprecedented rates. Our employers are being forced to drop health care coverage. This disproportionately affects small businesses burdened with shopping for health insurance in the costly small

group markets. Large employers bring bargaining clout to the table when they work with insurance companies. Small businesses have fewer employees, and thus have little or no bargaining power. Not only that, but large employers and unions are exempt from burdensome State mandates already. These mandates dictate what health plans must cover and vary from State to State. Small employers do not have that luxury.

We know that more than 60 percent of the uninsured Americans either work for a small business or are dependent upon someone who does. The clear course of action here is to help our small businesses afford health coverage by giving them those same opportunities that unions and large businesses have. Association health plans or AHPs do just that. Small businesses would be able to group together in bona fide trade associations. AHPs would then be able to use economies of scale to their advantage and provide more affordable health care for working families while avoiding administrative costs of State mandates. According to the CBO, AHPs would save small business owners and their employees as much as 25 percent on their health insurance.

I was pleased to see that the Senate task force on the uninsured included association health plans in their report just this week. They are not the only solution to the uninsured in America, but they are certainly an important part of any solution. This is a bipartisan bill. The time to act is now. I urge a yes vote on the rule and on the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFazio).

Mr. DEFazio. Mr. Speaker, the previous gentleman would not yield to my colleague, but it is the FDA's own assistant commissioner, Mr. Hubbard, who said they have seen no unsafe drugs from Canada but have found adulterated drugs in our relatively unregulated secondary wholesale market. So the gentleman is wrong on that. He said he has seen them. He ought to contact the FDA.

Mr. Speaker, there is some room for agreement here. There is a problem in the affordability of insurance, health insurance for many Americans and businesses, medical malpractice insurance for many doctors. But guess what? It has spilled over into car insurance, homeowners insurance, personal liability insurance. It seems to be a big crisis in the health insurance industry. And is it that there is this whole new tide of claims in these areas? No, it is because the industry mismanaged its funds.

It is an industry that is exempt from antitrust laws of the United States of America. They can and do collude to fix prices, redline people, and choose who they want to cover and who they do not. So they are sticking it to the docs and the American people and

American businesses who buy health insurance in all lines of insurance.

So one logical thing to do would be to subject the health insurance industry to the same rules that every other industry in the United States of America has to follow, make them follow antitrust laws, do not allow them to collude to set prices. But since they are such generous contributors to the other side of the aisle and to the President, oh, no, we are not going to make them like other industries, we are not going to make them competitive, let us give them a little gift here. We are going to go after other ways of dealing with this problem.

Of course, the other way of dealing with this problem is exactly the same bill passed by the House of Representatives last year which is not going to pass the Senate. So why are we here today? We are here today because they want to remind their political contributors they did this last year and they can do it again this year. The Senate is not going to do it. They do not want to really legislate. They do not want to come up with compromises that might pass.

There is a problem in affordability and access. There is a problem for both citizens and for docs to get the health insurance that they need. We are losing specialties. All those things are true, but their conclusion is to bail out their friends, the HMOs, the pharmaceutical companies, the insurance industry, not to help the docs, because there is not going to be a bill, and not to help the American people get affordable health insurance.

Mr. Speaker, there are better ways to deal with this problem. A number of States have adopted things that are called soft caps. The bill the other side of the aisle is trying to pass here today was brought up by initiative petition in my State. We hear people in America want this legislation. Guess what? In my State, which I think is a pretty good cross-section, the initiative for hard caps at \$250,000 when people saw the egregious things that happen to some people through negligence, was rejected 4 to 1. The other side of the aisle is telling us the American people want this solution. No, the American people want access to their doctors, and they want access to affordable health insurance. But the other side is not going to do either of those things today because it would go against the economic interests of some of their most generous political contributors.

This is identical to legislation passed in the House of Representatives last year, but here we are doing it again for political purposes, not legislative purposes.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Speaker, Washington State is facing a health care crisis because medical liability lawsuits have run amok. We are one of 19 States in the country that is in a

health care crisis. We have lost 500 doctors because they could not afford medical liability insurance in my State. What this means is women who are seeking an OB-GYN in some of our communities cannot find one to deliver their babies. That is a crisis. Emergency rooms are not able to stay open 24 hours a day; that is a crisis. We are losing doctors to Idaho, right across the line from my State.

As a member of the Medical Malpractice Crisis Task Force, I am pleased to support H.R. 4280, the Health Act, and pleased to support the rule. It is the right thing to do. There is every reason in the world that critics of any reform can try to give to mask the concept that we have to address the issue of medical liability reform first. We will not do that until we pass a bill in this House and we pass a bill in the other body so there can be communication and discussion and resolution of this problem.

□ 1115

To do nothing does not solve the problem, Mr. Speaker. So I am pleased that this HEALTH Act is being brought up again. We have to make sure we establish again and again and again the commitment of the House to medical liability reform, because doctors, hospitals, nurses, and patients are at risk if we do not change this system, modify this system, reform this system with a commonsense proposal that will lower costs and premiums so that doctors can stay in business. The damage that is being done here is that we are losing very good physicians and hospitals are at risk, risking closing, and also nurses are leaving the practice. They are going elsewhere because they are concerned about the liability insurance that they cannot get in States like mine. I urge my colleagues, vote for this measure, vote again in this House to pass it. Then let us urge the other body to adopt the same sort of commonsense reform. We can do that. I urge my colleagues to support the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, first let me thank the gentlewoman from New York for yielding me this time. I was listening to her comments. I just want to concur in that this is a very unusual process. Once again we are not going to have full debate and the opportunity to offer amendments. Although we might be getting used to it because it seems to be the norm around here, we should never be silent as to how this is wrong. We should have an opportunity to offer amendments. We should have an opportunity for an open process. We should have an opportunity to debate a bill on its merits. And we are not going to get that chance.

Mr. Speaker, let me mention just two matters that affect the people that I represent in Maryland and the reason I took this time. First, I agree with the

previous speaker on this side of the aisle that we should be doing something to bring down the cost of prescription medicines in this country. That is why I will vote against ordering the previous question, because I think we should have a debate on the floor dealing with the cost of medicines which is still the number one problem that I hear when I go to my town hall meetings. The second issue deals with these association health plans. I went to the Committee on Rules and asked for an amendment that would exempt States from these association health plans if the State requested it and they had a small-market reform which already provided help for their small businesses. In my State of Maryland, the adoption of the association health plans will actually be counterproductive. There will be fewer companies that will be offering health care benefits than there are today. That is why Governor Ehrlich has opposed that plan and many other Governors around the Nation have done the same. But I am not even going to have an opportunity to offer that amendment that would give the States the opportunity to continue their initiative. After all, I thought we believed in States rights here and the ability of States to be able to move forward with initiatives to cover their uninsured. But no, this bill works just the opposite. That is why many of our States we have heard from would oppose the association health plans in the way that it is currently drafted.

Mr. Speaker, I regret that the Committee on Rules did not allow that amendment to be made in order nor did they allow any amendment to be made in order. That is not the way that we should be operating in this body. It does not speak to the democratic process. Therefore, I would oppose the rule.

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from Florida (Mr. WELDON), who, as a doctor, has personal knowledge of how this stuff works.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentlewoman for yielding me this time. Yes, I do confess to being a doctor. I practiced medicine for 15 years before I was elected to the House of Representatives. I still see patients. I see them once a month. I want to address the issue in this rule of medical malpractice reform. A lot of people when they debate the issues surrounding the need for medical malpractice reform and reining in all of these plaintiffs' attorneys who are advertising on television, a lot of focus is on the size of the judgments and the costs, the legal fees associated with this system. But the real burden on our health care system is the high cost of defensive medicine.

What is defensive medicine? I can tell you exactly what defensive medicine is because I practiced it for 15 years. I spent daily between \$300 and \$3,000 a day unnecessarily. Primary care pro-

viders, they do not like to talk about this because it gets them in trouble with their insurance companies, not with their medical malpractice insurance companies but with the Blue Cross/Blue Shields and the Aetnas. The executives of those companies, if they hear doctors saying that they are spending money unnecessarily, they get very upset and they try to clamp down on it.

But how does it work? You come in and you have a headache, you have just lost your job or you have got problems at home. You order a CAT scan, anyway, just because you are worried that you might miss something. And you see the next patient and you are worried about this. Some of you may listen to me and say, oh, this is just rhetoric, this is just hot air. This has been studied scientifically. They studied it in California. They studied it before and after the medical malpractice reforms went through. They discovered that just in the Medicare plan alone that for one diagnosis of heart disease, we are probably spending in excess of \$600 million a year unnecessarily just within Medicare, just within one disease, because of defensive medicine.

They passed medical malpractice reform in California. They looked at a reduction in costs with no increased incidence of complications, what we call morbidity and mortality. In other words, quality stayed the same and costs went down. The only way to explain that, the researchers said, is a reduction in defensive medicine. What does this mean? This means if you want to save Medicare money so we can afford prescription drugs, pass medical malpractice reform. If you want to reduce the number of uninsured, pass medical malpractice reform. If you want to reduce the cost of health insurance for American businesses so they can be more competitive in the international marketplace, pass medical malpractice reform.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 1 minute. CBO reports that proponents of limiting malpractice liability argue greater savings in health care, possible through reductions in practice of defensive medicine. However, the defensive medicine is motivated less by liability than by the physicians, by the money it generates for them. And on the basis of existing studies and its own research, the Congressional Budget Office says savings from reducing defensive medicine would be very small.

Also, there is no evidence that restriction on tort liability reduced medical spending.

Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank the gentlewoman from New York for yielding me this time. I rise in strong support of the motion of the gentleman from Texas (Mr. FROST) to move the previous question and allow a vote on the two bills that are essential to lowering health care costs and helping

Americans afford their prescription drugs.

I would like to note the irony that today in the House of Representatives we are dealing with health care, the Senate is dealing with health care, and Senator KERRY is dealing with the issue of the uninsured and health care. The only person missing from this debate is the President of the United States, who still lacks an agenda as it relates to health care.

As we are focusing on health care costs, for the last 6 years the cost of prescription drugs in this country have gone up on average 18 percent. This year alone they are going to go up 18 percent. They are projected to go up next year 20 percent. That is five times the rate of inflation. The two bills that this motion would bring up on the floor would make an immediate and lasting impact on the cost of prescription drugs that our seniors are being asked to pay and our taxpayers are being asked to also pay. People from around the world come to America for their medical care. Yet Americans are forced to go around the world for their medications. That is wrong, and we can do better.

Just recently, the CEOs of Walgreens and CVS now came out in favor of allowing people to buy their drugs in Canada and in Europe. Secretary of Health and Human Services Tommy Thompson, who has opposed it, now supports allowing Americans to buy their prescription drugs in Canada and in Europe. The Secretary of Health and Human Services uses Lipitor. Where is that made? Ireland. The difference between that Lipitor that he buys and the people in Canada and Europe is that in the United States that costs 67 percent more here in the United States than it does in Europe and Canada, yet it is made from the same factory in Ireland and we import it into this country. It is distributed worldwide from one country.

Last year alone we imported \$14.5 billion worth of prescription drugs. They are safe. The only thing different with those drugs from anywhere else in the world is those drugs here in the United States at our pharmacy cost 50 to 60 percent more here in the United States than they do in Canada and in Europe. It is high time we bring competition and choice to market and bring prices down. This legislation would allow us to do that.

In addition to that, half the States in the country now have legislation or some ability allowing people to buy prescription drugs in Canada and Europe. Congress has passed this on a bipartisan basis. It is not a Democrat-Republican issue. It is between right versus wrong. It is high time we bring this legislation back up and give people real financial relief from a cost where inflation is running 2 percent, prescription drug costs are running close to 20 percent each year for the last 6 years. It is time we bring competition to bear on the market and allow prices to drop

through choice and through competition.

I would hope that my colleagues on the other side, given that 83 Members voted for this, allow this legislation to bear so we can finally force the other Chamber to allow prescription drugs prices to be driven down. This is about cost, cost, cost. When somebody tells you it is not about money, it is about money. The prescription drug companies have a hold on this Congress. It is time we break the hold and allow the voices of our constituents to be heard and the pressure on their wallets to be relieved.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I may have misheard my colleague earlier when I thought she said that CBO estimates on the premiums for medical malpractice insurance would be very small. If that is the case, I am sorry, but let me just let the record stand that CBO estimates predict that under this very act, premiums for medical malpractice insurance ultimately would be an average of 25 to 30 percent below what they are under current law. Twenty-five to 30 percent below the premiums that we have currently is not a small amount. It is very, very significant.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, let me yield myself 1 minute to respond to my colleague who did misunderstand what I was saying. The speaker had said that practicing defensive medicine was one of the reasons that the costs were so high. What the CBO has said was that defensive medicine is motivated less by liability concerns than the income it generates for the physician. On the basis of CBO's own studies and research, they believe that savings from reducing defensive medicine would be very small.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I have been on the floor yesterday as well as earlier today essentially pointing out that the Republicans who have now said that this is the week of the uninsured, that somehow this is the week they are going to pass legislation to help the uninsured are, in fact, doing nothing of the kind. We face a health care crisis in this country. It is a crisis that is based primarily on cost because the cost of health care keeps going up and also because more and more people have no health insurance. Nothing that is being presented in these bills today and tomorrow is going to do anything major to bring costs down for the patients or for those people who are now uninsured.

I oppose the rule because I think there should be an opportunity to bring up some Democratic measures that would do exactly that, reduce the costs of health care and also cover more people. Specifically, I know it has already

been mentioned with regard to cost, is the idea of reimportation from Canada and other countries. We all know that that saves the consumer money. Why not let us have an opportunity to bring that up? The Republicans are wrong in not allowing it to be brought up.

Secondly, let us amend the Medicare prescription drug bill so that we can have negotiated price reductions. Let the Medicare agency, let the Federal Government negotiate prices to bring prices down. This is what other countries do. This is what we do with our VA and with our military. It is a way of lowering costs. But beyond that for the uninsured, allow us as Democrats to bring up other measures. We have a measure that would allow the nearly elderly, those who are over 55, not yet eligible for Medicare, to buy into the Medicare program so that they can be insured. That is the second largest group around this country that have no health insurance right now.

In addition to that, we have a very successful bipartisan program called S-CHIP that insures a lot of the kids around this country who were uninsured. Let us amend that bill. Let us bring up an amendment that would allow us to expand the S-CHIP program to cover the parents of the kids. These are people that are working, they are lower-income but they are working, and they cannot get health insurance on the job.

Let us also address the problem that small businesses have. The Democrats have another proposal, a piece of legislation that would increase what small businesses can do in terms of tax deductions if they provide health care for their employees. The Republicans do not allow us to do this. They are doing nothing to deal with the crisis of health care in terms of cost and the uninsured.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will be asking for a "no" vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will allow the House to add two more important health-related bills to this multibill rule.

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Since we are revoting on health initiatives that have already passed the House in some form in this Congress, I think we should take this opportunity to consider two other very important pieces of healthcare-related legislation. My amendment would allow for the consideration of a bipartisan drug reimportation legislation. If the purpose of this rule and these bills is to restate our commitment to House-passed health-related matters, this bill certainly deserves to be included. It has been passed several times. Drug reimportation legislation would provide relief for millions of Americans including the over 40 million uninsured. The House overwhelmingly passed similar legislation last year but it is worth

considering again, now that the Secretary of Health and Human Services has said that he supports reimporting drugs from Canada.

The second bill would amend the Medicare Prescription Drug Act to provide for negotiation of fair prices for Medicare prescription drugs. I cannot think of a more important correction to the Medicare prescription drug bill than fixing the irresponsible language in that bill that prohibits the Federal Government from negotiating lower prices for prescription drugs for our Nation's senior citizens.

Let me emphasize that a "no" vote on the previous question will not stop consideration of the three bills already covered by the rule. It will allow the House to add these two important health bills to this multibill rule. However, a "yes" vote will block Members from considering two more critical health initiatives. Again, I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot stress enough the importance of moving forward with these solution-based initiatives. We have a chance here now to make a difference in the lives of hardworking Americans across this great Nation. So let us put a stop to the politicizing of the plight of the uninsured. Let us help the small business owners insure their employees. Let us help Americans have more say about how their health care dollars are spent. Let us help these pregnant women and their babies who have no doctors to deliver them and care for them. Let us help the 58 percent of OB-GYNs in Ohio that have to leave or change their practices than stay in the profession they have chosen.

Mr. Speaker, I urge my colleagues in the strongest way to support this rule and the underlying legislation.

Mr. COSTELLO. Mr. Speaker, I rise today to oppose the rule that refuses to allow for an open debate or the ability to offer amendments to the medical malpractice legislation brought to the floor today by the Republican leadership.

We have a medical malpractice crisis in downstate Illinois. Doctors are leaving the area at an alarming rate.

There is not a simple solution to this complex problem. Some believe that restricting or capping damages that victims of malpractice receive alone will solve the problem. Others believe that placing restrictions on the insurance industry is the answer. There have been many studies on the issue reaching conflicting

conclusions on the cause of the problem or the solution.

However, one thing is clear. If we do not have the ability to put all of the issues on the table for consideration, and if we do not have the ability to debate each issue and offer amendments on medical malpractice legislation, we will not be able to solve the problem.

The bill before us today is identical to the bill passed by the House that has been tied up in the Senate for months. The bill restricts or caps damages that a victim of malpractice can receive. However, the bill does nothing to restrict premiums that insurance companies can charge doctors or health care providers. It does nothing to stop or restrict the frivolous lawsuits that clog our court system and the bill does nothing to establish an alternative arbitration system to settle claims outside of the court system.

If we are serious about finding real solutions to the crisis rather than scoring political points, the Republican leadership should allow for open debate on all points of view and allow members to offer amendments to the bill to be considered and vote them up or down.

Unfortunately, they have restricted debate on the bill and have refused to allow any amendments to be offered, debated or considered. It is—take it or leave it as is with little debate and no amendments—no room to compromise.

I will vote no on the closed rule prohibiting amendments and restricting debate, and I will vote to recommit the bill so that we can come back to the floor with a bill that fully addresses all issues putting everything on the table for consideration and adoption.

I urge my colleagues to join me.

Mrs. CHRISTENSEN. Mr. Speaker, the House today considered a rule providing for the consideration of three bills that are intended to solve our nation's insurance crisis which has reached epidemic proportions. Today, an estimated 43 million in the United States have no health insurance. About 60 percent of those, approximately 24 million, are employed by a small business or are a member of a family whose income derives in some way from a small business. The skyrocketing prices of malpractice liability is driving insurance premiums up and making it impossible for employers of 500 or less individuals to afford the high cost of health care.

The bills being debated today while seeking to address these issues does so unfortunately, by providing the wrong solutions. Today, the House will once again bring up a bill to create Associated Health Plans (AHP). Providing a permanent solution to the uninsured is critical to our nation's economy because Small Businesses, the engine of our nation's economic growth because they create about 75 percent of new jobs in America, deserve a sound and permanent solution to the affordable health care.

Mr. Speaker I oppose the rule that will control the disposition of these bills primarily because it does not provide for Democrats to include their measures in solving the issue of the uninsured. The proposed rule only makes in order a substitute amendment and not an amendment to the underlying bill. Stacking the deck against the Democratic efforts to ensure that the legislation has a sense of balance and accurate in addressing the need of the American people.

Additionally, Mr. Speaker, I must also express my displeasure with the majority's ef-

forts to address the current malpractice crisis. As a former family doctor I am fully aware of the feeling many doctors have about being forced out of practice by very high insurance premiums. The Republican bill, H.R. 4280 does not address the problem, however.

According to the Institute of Medicine, "At least 44,000 and perhaps as many as 98,000 Americans die in hospitals each year as a result of medical errors. Deaths due to preventable adverse events exceed the deaths attributable to motor vehicle accidents (43,458), breast cancer (42,297) or AIDS (16,516)." The IOM estimates annual costs to the economy of medical errors between \$17 billion and \$29 billion. Congress would better serve the public with legislation that promotes patient safety, rather than overriding state-law deterrents that help prevent patient deaths and injuries.

Instead of reducing the costs of medical malpractice and defective products, the majority's approach would shift costs onto injured individuals, their families, voluntary organizations and taxpayers. Not only are the provisions unfair to victims, they also sacrifice the principles of market economics and private property long professed by the bill's conservative advocates.

Furthermore, punitive damages are rarely awarded in medical malpractice cases, but the threat of punitive damages is important to deterring reckless disregard for patient safety by HMOs, nursing homes, and drug and medical device manufacturers. The \$250,000 cap on non-economic damages awards are for non-economic loss (pain and suffering resulting from injuries such as lost child-bearing ability, disfigurement, and paralysis) compensate for the human suffering caused by medical negligence and defective medical products.

These damages generally account for 35 to 40 percent of a jury's award. Typically, such damages exceed \$250,000 only in cases of NAIC Level 6 injury severity or higher—that is cases involving permanent significant injuries. Thus, the cap will not affect patients with minor injuries; instead, it targets only victims of injuries such as deafness, blindness, loss of limb or organ, paraplegia, or severe brain damage. Since the cap makes no allowance for inflation, its arbitrary limits become more unjust as each day passes.

I implore my colleagues to reject this rule and H.R. 4280 and support the Conyers-Dingle substitute. The Democratic substitute does not restrict the rights of injured patients who file meritorious claims. It requires certification, with civil penalties, that a pleading is not frivolous, factually inaccurate or designed to harass. It includes a 3-year statute of limitation; establishes an alternative dispute resolution process; limits suits for punitive damages; and applies 50% of awards from any punitive damages to a patient safety fund at HHS. Finally, it requires insurance companies to develop a plan to give 50% of their savings to reductions in medical malpractice rates for doctors.

The Democratic substitute also addresses the causes of rising medical malpractice insurance rates by creating a new commission to evaluate the causes of the malpractice premium crisis and recommend solutions, including a medical reinsurance program, risk distribution among health providers and other changes that might avoid such increases in the future.

Because experience has shown that capping damages will not lower malpractice insurance rates for doctors, the Democratic substitute promotes competition in the marketplace so doctors can get lower insurance rates. The five states with the highest malpractice insurance premiums in the country in 2002 already had damage caps. Only insurance reform will help bring down rates. The Democratic substitute specifically requires the newly created commission to study various insurance reform proposals, particularly repealing the medical malpractice insurance exemption under the McCarran-Ferguson Act (which would foster competition).

Mr. Speaker, we need a real malpractice relief, I urge my colleagues to put partisan gamesmanship aside and pass health legislation that our nation is so badly in need of.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR H. RES. 638 RULE FOR H.R. 4279, H.R. 4280, & H.R. 4281

Strike section 4 and insert the following:

"Sec. 4. That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider a bill consisting of the text of H.R. 2427, to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes, as passed by the House. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; (2) an amendment in the nature of a substitute if offered by Representative Dingell of Michigan or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

"Sec. 5. That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3672) to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; (2) an amendment in the nature of a substitute if offered by Representative Dingell of Michigan or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

Sec. 6.(a) In the engrossment of H.R. 4279, the Clerk shall—

1. await the disposition of all the bills contemplated in sections 2-5;

2. add the respective texts of all the bills contemplated in sections 2-5, as passed by the House, as new matter at the end of H.R. 4279;

(3) conform the title of H.R. 4279 to reflect the addition to the engrossment of the text

of all the bill contemplated in sections 2-5 that have passed the House;

(4) assign appropriate designations to provisions within the engrossment; and

(5) conform provisions for short title within the engrossment.

(b) Upon the addition of the text of the bills contemplated in sections 2-5 that have passed the House to the engrossment of H.R. 4279, such bills shall be laid on the table.

(c) If H.R. 4279 is disposed of without reaching the stage of engrossment as contemplated in subsection (a), the bill contemplated in section 2-5 that first passes the House shall be treated in the manner specified for H.R. 4279 in subsections (a) and (b), and all other bills contemplated in sections 2-5 that have passed the House shall be laid on the table.

Ms. PRYCE of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PROVIDING FOR CONSIDERATION OF H.R. 4275, PERMANENT EXTENSION OF 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 637 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 637

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4275) to amend the Internal Revenue Code of 1986 to permanently extend the 10-percent individual income tax rate bracket. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Rangel of New York or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the cus-

tomary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

The resolution before us is a modified closed rule, the standard rule used for considering tax bills. It provides for 1 hour of debate in the House to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

It also provides for consideration of the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered as read and shall be separately debatable for 1 hour equally divided and controlled by the proponent and an opponent.

Finally, the rule waives all points of order against the amendment printed in the report, and it provides one motion to recommit with or without instructions.

Mr. Speaker, the legislation that we will be considering this week, H.R. 4275, the 10 percent tax bracket permanent extension bill, is very important to me, to my party, to the American taxpayers, and I believe this country. I support this legislation to fulfill a promise made by our great President, George W. Bush, and the Republican Party that was begun in 2001 when the 107th Congress overwhelmingly passed H.R. 1836, President Bush's visionary plan to provide American workers with comprehensive tax relief.

Among other things, the President's bold 2001 tax plan created a new 10 percent tax bracket, enabling millions of American families to keep more of their hard-earned money. In the period immediately preceding Congress' passing the President's tax proposal, between 1986 and 2000 the lowest tax rate available to these American workers was 15 percent.

The tax relief this new bracket provides to middle-class taxpayers has proven to be very beneficial to our economy and for hardworking families all across the United States. As a result, in 2003 Congress passed H.R. 2, another tax cut championed by President Bush that accelerated the phase-in of an expanded 10 percent tax bracket, increasing the amount of taxable family income that will be subject to this new lower rate. Under this bill the income eligible for this tax rate went up to \$14,000 from \$12,000, and up to \$7,000 from \$6,000 for singles.

Unfortunately, because this tax cut language was written as a compromise with the Senate. If Congress fails to pass my bill and permanently extend the 10 percent tax bracket, in 2005, 2006, and 2007 the bracket will shrink back to \$12,000 and \$6,000 for singles, increasing again briefly and then disappearing forever in 2011 to satisfy the arcane Senate budgetary rule.

If this were allowed to happen, it would mean that some 22 million low-income filers whose tax liability is contained wholly within the tax bracket of 10 percent would immediately be shouldered with a 50 percent income tax increase. I believe that this kind of tax increase on working-class Americans is simply unacceptable. My legislation offers a simple solution to prevent this major tax increase on middle-class families from occurring. It maintains and adjusts for inflation the size of the 10 percent bracket at \$14,000 for married couples, \$7,000 for singles, and makes this bracket a permanent part of the Tax Code.

If H.R. 4275 is not enacted, it would mean that 73 million tax returns, representing almost 150 million individual Americans, will be hit with a higher tax bill next year, and these taxpayers will face an average income tax increase of over \$2,400 over the next decade. It would mean that those 22 million lower-income workers would be pushed into a higher tax bracket, including over 1.7 million hardworking Texans from my State who struggle every day to make ends meet. Congress should not and cannot allow this massive tax increase to occur, and my legislation would prevent this antigrowth scenario from happening.

No other provision of the 2001 Bush tax cut has benefited taxpayers more broadly than the creation of this 10 percent bracket. Studies have shown that the benefits for this provision overwhelmingly flow to lower- and middle-income married earners between the ages of 25 and 54. These are precisely the people that this legislation will help, and I urge all of my colleagues to support this important tax measure on behalf of all American taxpayers.

This week's vote on H.R. 4275 will provide the kind of broad-based middle-class tax relief to which the Republican Party is strongly committed and so am I.

Mr. Speaker, I urge my colleagues to vote with me in supporting this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. SCOTT) for a brief personal privilege matter.

(By unanimous consent, Mr. SCOTT of Georgia was allowed to speak out of order.)

MOURNING THE PASSING OF GLORIA AARON

Mr. SCOTT of Georgia. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding to me, for being kind and generous for this moment.

Mr. Speaker, I rise really with a heart of sorrow. I rise to ask to be excused from voting so that I may be able to attend a funeral for my wife's sister, my sister-in-law, Gloria Aaron in Mobile, Alabama, who passed on Mother's Day weekend, Saturday. The funeral will be tomorrow and the wake this evening.

Of course, voting is paramount and most important to us here and I wanted to make sure it is a part of the RECORD as to why I will miss voting.

And while I am here, Mr. Speaker, I would like to say just one word about Gloria Aaron. She was more than just a sister-in-law. She was a sister, very strong in her faith and belief in God, worked very hard in the church in Mobile at Morning Star Baptist Church. She leaves a mother, Estelle Aaron; one sister, my wife, Alfredia; two brothers, James and Hank Aaron. Our family are deeply in remorse. I thank the Speaker for giving me this opportunity. And of course for Gloria, she indeed fought that good fight. She kept the faith. She finished her course, and I am sure that there is a crown of righteousness in heaven for Gloria Aaron.

I thank the gentleman from Texas for yielding, and I thank the Congress.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, I am pleased to join the gentleman from Texas (Mr. SESSIONS) today in support of H.R. 4275, legislation to make the expanded 10 percent tax bracket permanent. In my district in north Texas and across America, scores of families work hard every day to make ends meet. By passing this bill, we will provide some much-needed tax relief to these hard-working Americans.

But I must admit, Mr. Speaker, I find it very odd that some Members of this House would champion the tax relief bill before us today when they have also at nearly every opportunity voted against other measures that would have provided significant economic benefits to a great many middle-class taxpayers. I am talking about measures like providing additional tax relief by reinstating the State sales tax deduction and ensuring overtime pay for America's police and firefighters.

I think it is important to consider these sorts of measures now, Mr. Speaker, because many of our constituents are suffering from the recent recession and the outsourcing of good American jobs overseas.

Do not get me wrong, Mr. Speaker, we all want to provide tax relief to our constituents. I voted last week in favor of the bill to provide relief from the Alternative Minimum Tax. I voted the week before to permanently eliminate the marriage tax penalty, and I will vote today to make the expanded tax bracket permanent. The bill on the floor today is a good bill and it is the very least we can do to help families in the country, but I think the American people deserve better than our least effort.

Others may be happy to limit our efforts to help American families to this bill, but I am not, Mr. Speaker. We can improve this bill by amending the rule to allow for the consideration of H.R.

720, a bill introduced by the gentleman from Texas (Mr. BRADY). His bill will reinstate the sales tax deduction so that citizens of States without income taxes may deduct their sales taxes from their Federal tax bill. This is a very important issue for many Americans, including my constituents in North Texas who do not pay a State income tax but have been plagued by high sales taxes which may rise even higher if some in the Texas legislature have their way.

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Our State comptroller has estimated that the average Texas family would save about \$300 a year on their Federal taxes under the bill offered by the gentleman from Texas (Mr. BRADY).

Last week, I attempted to bring a similar measure up for consideration, but that effort was defeated on a straight party-line vote.

This is a bipartisan issue, Mr. Speaker, and I want to give the entire House an opportunity to vote on a bipartisan bill. H.R. 720 has 78 cosponsors, 47 Republicans and 31 Democrats. I have cosponsored the bill, the gentleman from Texas who is managing today's rule on the other side of the aisle has cosponsored the bill, and dozens of other well-respected Members from both parties have cosponsored the bill. As a matter of fact, Mr. Speaker, the Republican leadership indicated last week that they too support this bill.

So why do we not vote on it? Is this about politics, or is it about tax relief? Last week, Republicans defeated my amendment and said it was about politics. Well, here is a Republican bill that has strong bipartisan support and will provide millions of families with \$300 a year in tax relief.

The American people deserve to find out today whether the majority party will put partisan politics aside for just a minute to pass this badly needed tax relief. I bet our constituents just cannot wait to see how their elected Representatives will vote on this issue.

In the coming weeks, I hope we will have more opportunities to help more families. But in the meantime, if Members are serious about helping their constituents, they will not only vote to extend the 10 percent tax bracket permanently, they will also vote today to defeat the previous question and allow us to consider H.R. 720, to reinstate the sales tax deduction. It is a Republican bill with Democratic support. As my colleagues realize, a no vote will be a vote against tax cuts.

Mr. Speaker, at this point I would like to insert several things in the RECORD. I am inserting a special report from Carole Keeton Rylander, the Texas Comptroller of Public Accounts. In this report she says, "Restoration of the IRS sales tax deduction should be one of Texas' main priorities in Congress. The current discriminatory treatment of Texas taxpayers is taking \$701 million out of Texas pockets and costing our State more than 16,000 jobs."

I would also at this point, Mr. Speaker, insert in the record a statement by my colleague, the gentleman from Texas (Mr. BRADY), that he presented when he introduced this legislation. "Washington should treat all States equally," Mr. BRADY says. "A broad bipartisan group pushes Congress to end bias against sales tax States."

[Special Report, March 2002]

RESTORATION OF THE IRS SALES TAX DEDUCTION SHOULD BE ONE OF TEXAS' MAIN PRIORITIES IN CONGRESS

(By Carole Keeton Rylander)

Currently, the citizens of Texas and eight other states are discriminated against because they cannot take any tax deduction comparable to the state and local income tax deductions enjoyed by the citizens of 41 other states and the District of Columbia. In an attempt to alleviate this disparity, Comptroller Rylander proposes to restore much of the federal sales and motor vehicle sales tax deductions that citizens of Texas were last able to itemize on their federal income tax returns for the 1986 tax year.

The Comptroller's plan would grant taxpayers in all states the option of deducting either their state and local sales and motor vehicle sales taxes or their state and local individual income taxes on their Form 1040. While such an option would not fully restore the original deduction, which allowed deductions for sales as well as income taxes, it would go a long way toward restoring fundamental equity for taxpayers in those states that do not impose income taxes on their residents, and at minimal cost to the federal budget.

There is already legislation before Congress that closely tracks the Comptroller's plan. Last year, Representative Brian Baird (D-Washington) introduced H.R. 322, and Sen. Fred Thompson (R-Tennessee) introduced a similar bill, S. 291, in the Senate. Both bills would grant taxpayers in all states the option of itemizing a deduction for either their sales (including motor vehicle sales) taxes or income taxes paid, but not for both. Both bills would limit the deduction to a specific amount prescribed in a table (individualized for each state) providing deductible amounts by family size and income group. Taxpayers, however, would not have the option of deducting actual taxes paid, as they had in 1986 and before. The main difference between the bills is that H.R. 322 refers to state sales taxes, while S. 291 refers to state and local sales taxes. The Senate version also would allow the deduction against the Alternative Minimum Tax. H.R. 322 boasts among its 58 co-sponsors 18 Texans; S. 291 is co-sponsored by both Texas senators.

Texans lost their sales tax deductions in the last-minute deal-making behind the Tax Reform Act of 1986. Before passage of the Tax Reform Act of 1986 (TRA86), all individuals were allowed to take separate income tax deductions for their payments of state and local sales taxes and motor vehicle sales taxes. For the sales tax, they were allowed to deduct either the actual amount paid, or they could use an optional sales tax table that provided deductible amounts for each state (based on its rate and base) by income group and family size. For example, a family of four with an income of \$33,000 was allowed to deduct \$306 in state sales taxes in Texas, but \$508 in Tennessee; and in both instances, taxpayers were allowed to include an additional amount for local taxes paid.

TRA86 was designed to simplify the federal income tax by eliminating many deductions, exemptions and credits while increasing personal exemptions and standard deductions

and lowering and compressing tax rates. The deduction of state and local sales taxes was one of the last (and most contentious) items considered by the Senate, but the final efforts to restore at least some vestige of the deduction, led in part by Sen. Phil Gramm, ultimately failed. The argument put forth by members from the states that retained their state and local income tax deduction was that the losses attributable to the repeal of the sales tax deduction would be more than made up for by the increased personal exemption, and that the sales tax deduction only benefited the rich, because lower-income groups are less likely to itemize.

The Comptroller's plan could be put in place for less than 1 percent of the costs of existing state and local tax deductions. The March 26, 2001 cost estimate provided by the Joint Committee on Taxation estimated that H.R. 322 would decrease federal receipts by \$23.1 billion over the 10-year period 2002-2011. The annual costs were expected to average \$2.0 billion for the first three years, rising incrementally thereafter. Putting the federal cost in perspective, the 1999 cost for the current deduction for state and local income and property taxes was \$268.9 billion. As such, reinstatement would produce an increased cost to the federal government of 0.8 percent.

The Comptroller's plan could be put in place with virtually no increase in complexity. Although the sales tax deductions were eliminated in part for reasons of tax simplification, the proposed legislation before Congress would add only one more line to Schedule A, for those taxpayers electing to itemize on their Form 1040. Even if actual taxes paid were allowed to be deducted there would be an addition of only two lines: one for general sales taxes paid, and one for motor vehicle sales taxes paid.

Equity and fairness demand that tax discrimination against Texans be eliminated. Reinstatement of the deduction for sales taxes would eliminate the fundamental disparity created by TRA86, when citizens in states with a personal income tax were permitted to deduct such taxes, but citizens in states without an income tax had no corresponding deduction. The net effect of this disparity is that Texans, as well as the citizens of the eight other states without a general individual income tax pay a greater percentage of taxes to the federal government than do citizens living in their neighboring states with income taxes. In other words, the federal tax law currently treats the same individual differently solely on the basis of residence. Providing individuals in all states the choice to deduct one or the other of their sales or income taxes would restore equity and fairness for all U.S. citizens at minimal cost.

The Comptroller's plan would put more money in Texans' pockets. As with everything else in the IRS Code, the devil is in the details, and even subtle differences in proposed legislation can have major revenue implications, making any revenue estimates of the ultimate legislation difficult. Assuming that the federal legislation fairly and accurately portrayed Texans' sales tax and motor vehicle sales tax payments, restoration of the sales tax deduction could be expected to save Texans—in the aggregate—on the order of \$568.7 million (if only state sales taxes were exempted) to \$701.3 million (if state and local sales taxes were exempted) in the 2002 Tax Year. The corresponding average savings per itemizing Texas household would be \$231 and \$284.

While the deduction only would go to taxpayers who itemized their deductions, more Texans at lower income levels would find it to their benefit to itemize. Right now, only one in five tax returns filed by Texans

itemizes deductions, compared to almost one in three nationwide. The chief reason for this is that citizens of 41 states and the District of Columbia enjoy a deduction that is not available to Texans. Restoration of the deduction for sales taxes paid would go a long way towards bringing Texas closer to the national average. In other words, the availability of the deduction would benefit not only those who currently itemize, but an additional number of slightly lower-income households that would find it to their benefit to itemize.

The Comptroller's plan would create more jobs, economic growth, and state tax receipts with absolutely no state tax or spending increase. Keeping as much as \$701.3 million in the hands of Texas taxpayers would provide a significant boost to the state economy. Assuming that the legislation passed this year and that the deduction could be taken on income taxes filed in 2003 for the 2002 Tax Year, the tax savings could be expected to generate 16,180 new Texas jobs, \$590 million in new Texas investment, and \$874 million in increased Texas Gross State Product in 2003. The increased economic activity in turn could be expected to boost general revenue by \$66.5 million in the three-year period 2003-05. Most of this revenue would come from increased sales and motor vehicle sales tax collections.

The Comptroller's plan promises a win-win situation for all Texans, even those who do not itemize. To the extent that keeping more Texas income in Texas, where it belongs, instead of sending it off to Washington, all Texans would benefit from the increased employment opportunities and investment. In fact, it is difficult to find a downside for Texas to the reinstatement of the sales tax deduction.

The Comptroller's plan would be a straight-up win for the state, a victory for tax equity among the states, and it would provide a desirable, welcome boost to restoring statewide economic and revenue growth.

SALIENT FEATURES

Legislation tracking the Comptroller's plan would cost the federal government somewhere between \$2.0 to \$2.5 billion per year—less than 1 percent of the \$268.9 billion 1999 deduction for state and local income and property taxes.

Texans would save as much as \$701 million, or \$284 per itemizing household on their 2002 taxes.

The estimated tax savings would be expected to generate 16,180 new Texas jobs, \$590 million in new Texas investment, and \$874 million in increased Gross State Product in 2003.

The increased economic activity could be expected to boost 2003-04 general revenue-related state tax receipts for the three-year period 2003-05 by \$66.5 million.

Assuming that the federal legislation fairly and accurately portrayed Texans' sales tax and motor vehicle sales tax payments, a family of four with an income of \$60,000 would be able to deduct an additional \$1,015 to calculate taxable income, and a single mother of one with a total income of \$35,000 could deduct an additional \$641.

The current system discriminates against Texans and the citizens of other states that have opted to finance their budgets without personal income taxes. The Comptroller's plan is necessary to restore fairness and equity in the treatment of those state taxpayers who currently do not benefit from the tax deductions enjoyed by the citizens of the other 41 states and the District of Columbia.

[February 12, 2003]

“WASHINGTON: TREAT ALL STATES EQUALLY”
(Press Release by Congressman Kevin Brady)
BROAD BIPARTISAN GROUP PUSHES CONGRESS TO
END BIAS AGAINST SALES TAX STATES

WASHINGTON, D.C.—U.S. Representative Kevin Brady (R-TX), a member of the tax writing Ways and Means Committee in the U.S. House of Representatives, introduced legislation, The Sales Tax Equity Act, in Congress today that would treat Texans the same way others in America are treated when it comes to paying federal income tax.

Brady's bill jointly introduced with a bipartisan group of congressional legislators, restores the sales tax deduction Congress repealed in 1986. Specifically, the act would allow taxpayers to deduct either their state and local sales tax from their federal tax return.

“When tax time comes around each April, taxpayers in Texas and seven other states are discriminated against merely because we live in a state that wisely chooses not to burden families with a state income tax,” notes Brady. “Taxpayers in 42 states are allowed to deduct a portion of their state income taxes. But states like ours that rely upon sales taxes are discriminated against.”

“Americans should not be punished merely because of where they live. States should be free to choose how to fund their government without pressure from Washington. Uncle Sam's bias toward the income tax is unfair and needs to end.”

Texas Comptroller Carol Keeton Strayhorn estimates the average Texas family would save just under \$300 a year on their federal taxes. Supported also by Governor Rick Perry, The Sales Tax Equity Act would provide an economic boost by creating over 16,000 new jobs, \$590 million in new investments, and \$874 million in increased gross state product in Texas.

So that families don't need to keep a shoe box of sales receipts, under Brady's bill the Internal Revenue Service would establish average deduction tables based on filing status, number of dependents, adjusted gross income and rates of state, and local general sales taxes. The tables, which taxpayers could opt for, are indexed for inflation.

The bipartisan delegation announcing the legislation at a news conference today in Washington include: Barbara Cubin (R-Wyoming), Brian Baird (D-WA), Zach Wamp (R-TN), Mark Foley (R-FL), Jim Cooper (D-TN) and Marsha Blackburn (R-TN). The group is pushing to include the measure in President Bush's Jobs & Growth tax relief package, noting that the measure will help stimulate consumer spending, restores fairness and helps low and middle-income taxpayers.

“Sales taxes add up for a family over the year,” says Brady. “This is an issue of fairness and of reducing the federal tax burden.”

“Another merit is this benefit taxpayers in every state because it gives them the option of deducting whichever state tax is higher, sales or income. That is a welcome tax relief option”, says Brady.

Other members of the Texas delegation supporting The Sales Tax Equity Act include: Sam Johnson (R) Gene Green (D) Michael Burgess (R); Eddie Bernice Johnson (D); John Carter (R); Max Sandlin (D); Ron Paul (R); Ralph Hall (D); Martin Frost (D); Henry Bonilla (R) and Silvestre Reyes (D).

States without a state income tax include: Texas, Florida, Tennessee, South Dakota, Nevada, Washington, Wyoming, and Alaska. The bipartisan Joint Committee on Taxation estimates the measure will provide \$29 billion of tax relief over the next decade.

Mr. Speaker, it is clear that the legislation being offered today by the ma-

jority is good legislation, and I support the legislation. It is also clear that there is bipartisan support for the bill offered by the gentleman from Texas (Mr. BRADY) to permit a deduction of State sales taxes in those States that do not have an income tax. It is a wrong that should be righted, and I hope this House will make in order a vote on the bill offered by the gentleman from Texas (Mr. BRADY) at the same time we take up the bill offered by the gentleman from Texas (Mr. SESSIONS).

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have great respect for what the gentleman was arguing here about this sales tax bill. It is something where the gentleman from Texas (Mr. BRADY) has been joined with by the gentleman from Washington (Mr. BAIRD), as they have worked for a long, long time. I recall probably a full year ago where I was approached by both these gentleman about being a cosponsor of this important legislation.

The fact of the matter is today we are here to consider this 10 percent bill. Last week we considered other tax bills. Next week we will consider more tax bills. These are being done in such a way that would allow us a chance to talk about the importance of these, not only to taxpayers, but to the middle class of this country. It is my attempt and desire, just as it is with the gentleman from Washington (Mr. BAIRD) and the gentleman from Texas (Mr. BRADY), to continue working with the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), on the correct bill, the bill that he will support, the bill that will come to the floor, that bill that will pass, the bill that will provide this opportunity for all the taxpayers of these States. I believe it is some 17 States that currently have this problem as it relates to sales tax as a result of those States not having an income tax.

Today we are here for H.R. 4275 because it does the right thing for middle-class wage earners on this 10 percent tax bracket, and I am proud of what we are doing. I think anytime we can join in talking about on the floor of the House a bipartisan approach to lowering taxes, increasing the opportunity for people to have more money, more take-home pay, more opportunity, it is always good.

I have been an advocate of this for a long time. I do not think we should tax savings or investment in this country. That is not a part of what this is about today. We are talking about lowering the tax bracket, making it permanent, doing the right thing. I applaud those people that come to the floor and support this, because it is a great idea that we ought to make permanent.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is interesting, my colleague from Texas talks about the legislation and, well, we will do that in all due time and all due course, in terms of the righting of the wrong that was committed 18 years ago. The sales tax deduction for my State and for six other States, it is not 17, it is 7, was eliminated by this Congress in 1986, 18 years ago.

Only a few bills come out of the Committee on Ways and Means, only a few favored bills, so we have to take the opportunity to present this very important piece of legislation on the floor today and to give the House an opportunity to vote to right this wrong on the question of the deductibility of State sales tax. There are no other opportunities to present this to the House. That is why we are presenting it today. I hope that the House will give us the opportunity to right that wrong.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I would like to thank my colleague from the great State of Texas for his leadership on this. The gentleman from Texas (Mr. FROST) has been a steadfast advocate of correcting this injustice for many years, and I appreciate working with him.

Mr. Speaker, I also respect also my colleague on the other side of the aisle because I know he cares about this. But at the end of the day today, we will have had an opportunity to vote to at least restore fairness to our citizens.

When we go back home, we cannot very well say to them “it is a procedural matter,” because it is also a procedural matter that every year when they fill out their taxes and they itemize their deductions, they have to put a zero; they have to say because our State chooses sales tax over income tax, as is their right, we are not able to deduct our sales taxes the way the States with income taxes can.

It is a procedural matter that costs our taxpayers hundreds of dollars every single year that they could use for their families. It is a procedural matter that costs my State \$500 million every year.

The gentleman from Texas (Mr. SESSIONS) was right: We have passed a number of tax bills over the last few years in this Congress. We have had multiple opportunities, had the majority Members chosen to put their people over their partisanship. But they have declined.

Here is another opportunity. There was one last week. How many weeks are we going to say to our constituents that you go to the back of the line again? We have lowered the tax rates on millionaires in this country. We have refused to fight for tax fairness by insisting that the people of our States be allowed their deductions. So millionaires, not just millionaires, but people earning \$1 million a year in income, were put at the front of the line. Our States have been told again and again, you go to the back of the line.

It is going to happen again today, I fear, and it does not have to. To my good friends on the other side of the aisle, we have worked and we should work in a bipartisan way, because the Tax Code does not say Republicans or Democrats or Independents get to deduct or do not get to deduct their sales tax. It just says all of you who have a sales tax do not get to deduct it.

But at the end of the day, on a procedural vote, we are going to bypass yet another opportunity, and bypassing that opportunity over the last several years has cost our taxpayers thousands of dollars.

When I ask my friends, when are you going to say to your leadership, we insist at long, long last that our constituents be treated fairly in the Tax Code? When are you going to say that? Because we have said it to our leadership.

It is going to be in the Democratic bill. It has been in prior Democratic bills. We have brought it up before the Committee on Rules, with almost unanimous no votes on the other side, with few exceptions. We cannot get the help on the other side.

My colleague, the gentleman from Texas (Mr. FROST), has been a steadfast advocate. He brought this issue up last week, and I am grateful he did. We didn't get a single yes vote from the other side. We did not get a single vote. Here it is again, and I wager we will not get a single vote yet again.

At some point, the citizens of our States are going to catch on and they are going to say, for all this talk about tax cuts, why do you keep leaving us out? Because your leadership is putting you in a position that says, time and time and time and time again, you must vote with us and not with your constituents. And it is not your leadership who elected you, it is your constituents.

The gentleman from Texas (Mr. FROST) has been responsive to his constituents. He has said we need to bring this up now, and we have the opportunity to do that now.

I would just ask my colleagues, you know as well as I do the only way we get this to happen is to make this part of a larger bill. We do need to provide relief for low and mid-income families in the Tax Code, but we also need to provide relief for the families in our States who have suffered too long under this injustice.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman not only for his articulation of the wonderful merits of fairness in our Tax Code, fairness for all the people in all the States. I accept the opportunity for my colleague, the gentleman from Texas (Mr. FROST) to reiterate there are 7 States that this impacts, and I appreciate his bringing that to light and respect that.

I would tell you that today, this is about the 10 percent bracket. This is a very specific request that we are mak-

ing to the House of Representatives today that will be with the other requests that we are making on the parts of the Bush tax plan to make them permanent.

It makes me proud to know that we in the House of Representatives are together on these issues, about their importance of people who are back home, people who are struggling, people who are trying to make ends meet, people who are trying to make sure they provide for their families and do those things which are necessary to their own dreams. It makes me happy, and I am very proud.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a good piece of legislation before us today that I intend to support. I think most Members of the House will support it. My only request is that, at the same time, we provide equity and justice to the residents of seven States who were denied that equity and justice in 1986.

Now, I know my colleague is a relatively junior Member and was not here in 1986 when that legislation was voted on, but I was here, and I voted against the legislation that denied the residents of my State the opportunity to deduct their sales tax, when residents of New York and California and other States could deduct their State income tax.

I feel very strongly about this issue, Mr. Speaker. As Members of this House, we can do so much to lend a helping hand to our constituents. Today we have a chance to do something good for millions of American families. We can pass the bill to make the extended 10 percent tax bracket permanent, and then we can also immediately consider the Brady legislation, H.R. 720, to restore the sales tax deduction for citizens of Texas, Florida and other States lacking a State income tax.

Now, as I mentioned earlier, last week I attempted to bring to the floor a similar bill to reinstate the sales tax deduction, but the Republican leadership indicated a preference for the Brady bill. So now we have a chance to consider the legislation that Republicans preferred. It does not matter to me which bill we consider. This is a bipartisan issue, with wide support on both sides of the aisle.

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I just want to get it done.

So today, Mr. Speaker, to get it done, I urge a "no" vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will allow the House to vote on H.R. 720.

Let me be clear, Mr. Speaker. Voting "no" on the previous question will not prevent this House from voting on the underlying bill. It will simply allow for the consideration of H.R. 720. A "yes" vote, however, will deny the House the chance to even consider the issue of reinstating the sales tax deduction.

The American people deserve to know where their elected representatives stand on the issue of restoring the sales tax deduction. This is not a partisan issue, and this is not a political issue. This is about whether the citizens of Texas and other States should have to pay for the privilege of living there. I hope Members realize it today, and I hope their votes reflect this as well.

I urge a "no" vote on the previous question and ask unanimous consent that the text of the amendment be printed in the CONGRESSIONAL RECORD immediately before the vote.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

We have graciously provided Members this wonderful opportunity to hear about the debate of H.R. 4275, providing each other, both parties, an opportunity for Members to hear about an agreement that we believe that this initiative that was begun by President Bush of this 10 percent tax bracket, one that has now become available, one which we need to make permanent, is the question that is before us today on the floor. We have vetted this process. We have done those right things. We have gone through the committees. We have done this with numerous tax bills, and we will wish to continue doing that also.

We have an abiding faith in the taxpayer, that special interest group of the Republican Party, the people who get up and go to work, people who make their lives work, people who care about their kids, people who create jobs and opportunity, people who do things because they love their country and they want America to be the strongest, with opportunity and bettering people's lives.

That is part of what this H.R. 4275 is about. It is about bettering people's lives. It is a political consideration that our President, George W. Bush, floated to us years ago. It is about us as Members of Congress hearing that call, seeing people back home who relish this opportunity not to have it taken away. That is the importance of this body. This body is able to debate the issues, is able to bring them forth, is able to talk about them. And that is what is so evident about this great Nation, a majority rule.

Mr. Speaker, I would say to my colleagues, I too wish we had lots of other things that would be a part of this bill for tax relief. Today is a day when we will stand up and say we are going to make sure that this 10 percent bracket will be permanent for all taxpayers. I am proud of what we are doing. I ask each of my colleagues to support this rule, this underlying legislation, and the opportunity which I believe will be tomorrow to debate this fully on the

floor of the House of Representatives and, once again, give a victory to the taxpayers of this country.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 637; RULE ON H.R. 4275—MAKING THE 2003 CHANGES TO THE 10% TAX BRACKET PERMANENT

In the resolution strike “and (3)” and insert the following:

“(3) the amendment printed in Sec. 2 of this resolution if offered by Representative Brady of Texas or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (4)”

Sec. 2. The amendment referred to in (3) follows:

At the end of the bill add the following new section:

SEC. 2. DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.

(a) IN GENERAL.—Subsection (b) of section 164 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

“(5) GENERAL SALES TAXES.—For purposes of subsection (a)—

“(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—

“(i) IN GENERAL.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

“(I) without regard to the reference to State and local income taxes,

“(II) as if State and local general sales taxes were referred to in a paragraph thereof, and

“(III) without regard to the last sentence.

“(B) DEFINITION OF GENERAL SALES TAX.—The term ‘general sales tax’ means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.

“(C) SPECIAL RULES FOR FOOD, ETC.—In the case of items of food, clothing, medical supplies, and motor vehicles—

“(i) the fact that the tax does not apply with respect to some or all of such items shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

“(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

“(D) ITEMS TAXED AT DIFFERENT RATES.—Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax imposed with respect to an item at a rate other than the general rate of tax.

“(E) COMPENSATING USE TAXES.—A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term ‘compensating use tax’ means, with respect to any item, a tax which—

“(i) is imposed on the use, storage, or consumption of such item, and

“(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

“(F) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

“(G) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales

tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer’s trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

“(H) AMOUNT OF DEDUCTION TO BE DETERMINED UNDER TABLES.—

“(i) IN GENERAL.—The amount of the deduction allowed under this paragraph shall be determined under tables prescribed by the Secretary.

“(ii) REQUIREMENTS FOR TABLES.—The tables prescribed under clause (i)—

“(I) shall reflect the provisions of this paragraph,

“(II) shall be based on the average consumption by taxpayers on a State-by-State basis, as determined by the Secretary, taking into account filing status, number of dependents, adjusted gross income, and rates of State and local general sales taxation, and

“(III) need only be determined with respect to adjusted gross incomes up to the applicable amount (as determined under section 68(b)).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the “ayes” appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on ordering the previous question on House Resolution 637 will be followed by 5-minute votes, if ordered, on adopting House Resolution 637, ordering the previous question on House Resolution 638, and adopting House Resolution 638.

The vote was taken by electronic device, and there were—yeas 221, nays 203, not voting 9, as follows:

[Roll No. 156]

YEAS—221

Aderholt	Brown-Waite,	Davis, Tom
Akin	Ginny	Deal (GA)
Bachus	Burgess	DeLay
Baker	Burns	Diaz-Balart, L.
Ballenger	Burr	Diaz-Balart, M.
Barrett (SC)	Buyer	Doolittle
Bartlett (MD)	Calvert	Dreier
Barton (TX)	Camp	Dunn
Bass	Cannon	Ehlers
Beauprez	Cantor	Emerson
Bereuter	Capito	English
Biggert	Carter	Everett
Bilirakis	Castle	Feeney
Bishop (UT)	Chabot	Ferguson
Blackburn	Chocola	Flake
Blunt	Coble	Foley
Boehlert	Cole	Forbes
Boehner	Collins	Fossella
Bonilla	Cox	Franks (AZ)
Bonner	Crane	Frelinghuysen
Bono	Crenshaw	Garrett (NJ)
Boozman	Cubin	Gerlach
Bradley (NH)	Culberson	Gibbons
Brady (TX)	Cunningham	Gilchrest
Brown (SC)	Davis, Jo Ann	Gillmor

Gingrey	LoBiondo	Rogers (MI)
Goode	Lucas (OK)	Rohrabacher
Goodlatte	Manzullo	Ros-Lehtinen
Goss	McCotter	Royce
Granger	McCrery	Ryan (WI)
Graves	McHugh	Ryun (KS)
Green (WI)	McInnis	Saxton
Greenwood	McKeon	Schrock
Gutknecht	Mica	Sensenbrenner
Hall	Miller (FL)	Sessions
Harris	Miller (MI)	Shadegg
Hart	Miller, Gary	Shaw
Hastings (WA)	Moran (KS)	Shays
Hayes	Murphy	Sherwood
Hayworth	Musgrave	Shimkus
Hefley	Myrick	Shuster
Hensarling	Nethercutt	Simmons
Herger	Neugebauer	Simpson
Hobson	Ney	Smith (MI)
Hoekstra	Northup	Smith (NJ)
Hostettler	Norwood	Smith (TX)
Houghton	Nunes	Souder
Hulshof	Nussle	Stearns
Hunter	Osborne	Sullivan
Hyde	Ose	Sweeney
Isakson	Otter	Tancredo
Issa	Oxley	Taylor (NC)
Istook	Paul	Terry
Johnson (CT)	Pearce	Thomas
Johnson (IL)	Pence	Thornberry
Johnson, Sam	Peterson (PA)	Tiahrt
Jones (NC)	Petri	Tiberi
Keller	Pickering	Toomey
Kelly	Pitts	Turner (OH)
Kennedy (MN)	Platts	Upton
King (IA)	Pombo	Vitter
King (NY)	Porter	Walden (OR)
Kingston	Portman	Walsh
Kirk	Pryce (OH)	Wamp
Kline	Putnam	Weldon (FL)
Knollenberg	Quinn	Weldon (PA)
Kolbe	Radanovich	Weller
LaHood	Ramstad	Whitfield
Latham	Regula	Wicker
LaTourette	Rehberg	Wilson (NM)
Leach	Renzi	Wilson (SC)
Lewis (CA)	Reynolds	Wolf
Lewis (KY)	Rogers (AL)	Young (AK)
Linder	Rogers (KY)	Young (FL)

NAYS—203

Abercrombie	Dingell	Kind
Ackerman	Doggett	Klecckza
Alexander	Dooley (CA)	Kucinich
Allen	Doyle	Lampson
Andrews	Duncan	Langevin
Baca	Edwards	Lantos
Baird	Emanuel	Larsen (WA)
Baldwin	Engel	Larson (CT)
Ballance	Eshoo	Lee
Becerra	Etheridge	Levin
Bell	Evans	Lewis (GA)
Berkley	Farr	Lipinski
Berman	Fattah	Lofgren
Berry	Filner	Lowey
Bishop (GA)	Ford	Lucas (KY)
Bishop (NY)	Frank (MA)	Lynch
Blumenauer	Frost	Majette
Boswell	Gephardt	Maloney
Boucher	Gonzalez	Markey
Boyd	Gordon	Marshall
Brady (PA)	Green (TX)	Matheson
Brown (OH)	Grijalva	Matsui
Brown, Corrine	Gutierrez	McCarthy (MO)
Capps	Harman	McCarthy (NY)
Capuano	Hastings (FL)	McCollum
Cardin	Hill	McDermott
Cardoza	Hinchey	McGovern
Carson (IN)	Hinojosa	McIntyre
Carson (OK)	Hoeffel	Meehan
Case	Holden	Meek (FL)
Chandler	Holt	Meeks (NY)
Clay	Honda	Menendez
Clyburn	Hooley (OR)	Michaud
Conyers	Hoyer	Millender-
Cooper	Inslee	McDonald
Costello	Israel	Miller (NC)
Cramer	Jackson (IL)	Miller, George
Crowley	Jackson-Lee	Mollohan
Cummings	(TX)	Moore
Davis (AL)	Jefferson	Moran (VA)
Davis (CA)	Jenkins	Murtha
Davis (IL)	Johnson, E. B.	Nadler
Davis (TN)	Jones (OH)	Napolitano
DeGette	Kanjorski	Neal (MA)
Delahunt	Kaptur	Oberstar
DeLauro	Kennedy (RI)	Obey
Deutsch	Kildee	Olver
Dicks	Kilpatrick	Ortiz

Owens
Pallone
Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda
T.

Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher

Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Ehlers
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter

Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourrette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo

Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancred
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Ose
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-
McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)

Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman

Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Burton (IN)
Davis (FL)
DeFazio

DeMint
Gallegly
John

McNulty
Reyes
Tauzin

□ 1230

Messrs. WYNN, JENKINS, DOGGETT and RUSH changed their vote from “yea” to “nay.”

Mr. SOUDER changed his vote from “nay” to “yea.”

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4279, PROVIDING FOR DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS; H.R. 4280, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2004; AND H.R. 4281, SMALL BUSINESS HEALTH FAIRNESS ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of ordering the previous question on House Resolution 638 on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 222, nays 202, not voting 9, as follows:

[Roll No. 157]

YEAS—222

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis

Bishop (UT)
Blackburn
Blunt
Boehert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)

Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Costello

NAYS—202

Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez

Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Klecza
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin

NOT VOTING—9

Cooper
Davis (FL)
DeMint

Emerson
Gallegly
McNulty

Reyes
Tauzin
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). There are 2 minutes remaining in this vote.

□ 1238

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the “ayes” appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 203, not voting 6, as follows:

[Roll No. 158]

AYES—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny

Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay

Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss

Granger
Graves
Green (WI)
Greenwood
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo

McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Muscgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher

Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrook
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shinkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberti
Toomey
Turner (OH)
Porter
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabó
Sánchez, Linda
T.
Sanchez, Loretta

Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skeltton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher

Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—6

DeMint
Dunn

Gutknecht
McNulty

Reyes
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1245

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. GEORGE MILLER of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2660 be instructed to insist on reporting an amendment to prohibit the Department of Labor from using funds under the Act to implement any portion of a regulation that would make any employee ineligible for overtime pay who would otherwise qualify for overtime pay under regulations under section 13 of the Fair Labor Standards Act in effect September 3, 2003, except that nothing in the amendment shall affect the increased salary requirements provided in such regulations as specified in section 541 of title 29 of the Code of Federal Regulations, as promulgated on April 23, 2004.

□ 1245

MOTION TO TABLE OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

Mr. DELAY moves that the motion to instruct be laid on the table.

PARLIAMENTARY INQUIRY

Mr. GEORGE MILLER of California. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California (Mr. GEORGE MILLER) will state it.

Mr. GEORGE MILLER of California. Mr. Speaker, if a motion to table this motion on overtime pay prevails, will it have the effect of prohibiting the House Members from even discussing the administration's overtime pay rules at this time?

The SPEAKER pro tempore. The motion will not be before the House if the motion is tabled.

Mr. GEORGE MILLER of California. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. Mr. Speaker, so to be clear, that means that the body will not be debating overtime pay today; is that the impact of the motion to table, to deny us a vote on the overtime pay?

The SPEAKER pro tempore. If the motion to table were adopted, the motion of the gentleman from California (Mr. GEORGE MILLER) would not be before the House.

The question is on the motion offered by the gentleman from Texas (Mr. DELAY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to table the motion to instruct, if the motion to table is adopted, will be followed by a 5-minute vote on suspending the rules and adopting H. Res. 608.

The vote was taken by electronic device, and there were—ayes 222, noes 205, not voting 6, as follows:

[Roll No. 159]

AYES—222

Aderholt	Carter	Gibbons
Akin	Castle	Gilchrest
Bachus	Chabot	Gillmor
Baker	Chocola	Gingrey
Ballenger	Coble	Goode
Barrett (SC)	Cole	Goodlatte
Bartlett (MD)	Collins	Goss
Barton (TX)	Cox	Granger
Bass	Crane	Graves
Beauprez	Crenshaw	Green (WI)
Bereuter	Cubin	Greenwood
Biggert	Culberson	Gutknecht
Bilirakis	Cunningham	Hall
Bishop (UT)	Davis, Jo Ann	Harris
Blackburn	Davis, Tom	Hart
Blunt	Deal (GA)	Hastings (WA)
Boehlert	DeLay	Hayes
Boehner	Diaz-Balart, L.	Hayworth
Bonilla	Diaz-Balart, M.	Hefley
Bonner	Doolittle	Hensarling
Bono	Dreier	Herger
Boozman	Duncan	Hobson
Bradley (NH)	Dunn	Hoekstra
Brady (TX)	Ehlers	Hostettler
Brown (SC)	Emerson	Houghton
Brown-Waite,	Everett	Hulshof
Ginny	Feeney	Hunter
Burgess	Ferguson	Hyde
Burns	Flake	Isakson
Burr	Foley	Issa
Burton (IN)	Forbes	Istook
Buyer	Fossella	Jenkins
Calvert	Franks (AZ)	Johnson (CT)
Camp	Frelinghuysen	Johnson, Sam
Cannon	Galleghy	Jones (NC)
Cantor	Garrett (NJ)	Keller
Capito	Gerlach	Kelly

NOES—203

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch

Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoefel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind

Klecza
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller-ender
McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone

Kennedy (MN) Ose
King (IA) Otter
King (NY) Oxley
Kingston Paul
Kirk Pearce
Kline Pence
Knollenberg Peterson (PA)
Kolbe Petri
LaHood Pickering
Latham Pitts
LaTourette Platts
Lewis (CA) Pombo
Lewis (KY) Porter
Linder Portman
LoBiondo Pryce (OH)
Lucas (OK) Putnam
Manzullo Quinn
McCotter Radanovich
McCrery Ramstad
McHugh Regula
McInnis Rehberg
McKeon Renzi
Mica Reynolds
Miller (FL) Rogers (AL)
Miller (MI) Rogers (KY)
Miller, Gary Rogers (MI)
Moran (KS) Rohrabacher
Murphy Ros-Lehtinen
Musgrave Royce
Myrick Ryan (WI)
Nethercutt Ryan (KS)
Neugebauer Saxton
Ney Schrock
Northup Sensenbrenner
Norwood Sessions
Nunes Shadegg
Nussle Shaw
Osborne Shays

NOES—205

Abercrombie Evans
Ackerman Farr
Alexander Fattah
Allen Filner
Andrews Ford
Baca Frank (MA)
Baird Frost
Baldwin Gephardt
Ballance Gonzalez
Becerrra Gordon
Bell Green (TX)
Berkley Grijalva
Berman Gutierrez
Berry Harman
Bishop (GA) Hastings (FL)
Bishop (NY) Hill
Blumenauer Hinchey
Boswell Hinojosa
Boucher Hoeffel
Boyd Holden
Brady (PA) Holt
Brown (OH) Honda
Brown, Corrine Hooley (OR)
Capps Hoyer
Capuano Inslee
Cardin Israel
Cardoza Jackson (IL)
Carson (IN) Jackson-Lee
Carson (OK) (TX)
Case Jefferson
Chandler John
Clay Johnson (IL)
Clyburn Johnson, E. B.
Conyers Jones (OH)
Cooper Kanjorski
Costello Kaptur
Cramer Kennedy (RI)
Crowley Kildee
Cummings Kilpatrick
Davis (AL) Kind
Davis (CA) Kleczka
Davis (FL) Kucinich
Davis (IL) Lampson
Davis (TN) Langevin
DeFazio Lantos
DeGette Larsen (WA)
Delahunt Larson (CT)
DeLauro Leach
Deutscher Lee
Dicks Levin
Dingell Lewis (GA)
Doggett Lipinski
Dooley (CA) Lofgren
Doyle Lowey
Edwards Lucas (KY)
Emanuel Lynch
Engel Majette
Eshoo Maloney
Etheridge Markey

Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Royce
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender
Hill
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarelli
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Rothman
Royal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skeltan

Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher

DeMint
English

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1307

Mr. DEUTSCH changed his vote from “aye” to “no.”

Mr. GILLMOR changed his vote from “no” to “aye.”

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF HOUSE THAT DEPARTMENT OF DEFENSE SHOULD RECTIFY MILITARY POSTAL SYSTEM DEFICIENCIES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 608.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. FORBES) that the House suspend the rules and agree to the resolution, H. Res. 608, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 160]

YEAS—421

Abercrombie Blackburn
Ackerman Blumenauer
Aderholt Blunt
Akin Boehmert
Alexander Boehner
Allen Bonilla
Andrews Bonner
Baca Bono
Bachus Boozman
Baird Boswell
Baker Boucher
Baldwin Boyd
Ballance Bradley (NH)
Ballenger Brady (PA)
Barrett (SC) Brady (TX)
Bartlett (MD) Brown (OH)
Barton (TX) Brown (SC)
Bass Brown, Corrine
Beauprez Brown-Waite,
Beccerra Ginny
Bell Burgess
Bereuter Burns
Berkley Burr
Berman Burton (IN)
Berry Buyer
Biggart Calvert
Bilirakis Camp
Bishop (GA) Cannon
Bishop (NY) Cantor
Bishop (UT) Capito

Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky

McNulty
Reyes

NOT VOTING—6

Ross
Tauzin

Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

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NOT VOTING—12

DeMint	Lipinski	Reyes
Gutierrez	McNulty	Sessions
Issa	Oberstar	Tauzin
Larson (CT)	Regula	Tiahrt

□ 1315

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ISSA. Mr. Speaker, on rollcall No. 160 I was unavoidably detained. Had I been present, I would have voted "yea."

PROVIDING FOR DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS

Mr. MCCRERY. Mr. Speaker, pursuant to House Resolution 638, I call up the bill (H.R. 4279) to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BONILLA). Pursuant to House Resolution 638, the bill is considered read for amendment.

The text of H.R. 4279 is as follows:

H.R. 4279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

“(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

“(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than \$500 of unused health benefits may be—

“(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

“(B) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

“(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the

term ‘health flexible spending arrangement’ means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

“(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term ‘unused health benefits’ means the excess of—

“(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

“(B) the actual amount of reimbursement for such year under such arrangement.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in part A of House Report 108-484, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Louisiana (Mr. MCCRERY) and the gentleman from California (Mr. STARK) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4279, a bill that would update flexible spending arrangements, known as FSAs, to allow up to \$500 of unused health benefits to be carried forward to next year's FSA or transferred to a health savings account. Flexible spending arrangements allow employees to set aside money in an employer-established benefit plan that can be used on a tax-free basis to meet their out-of-pocket health care expenses during the year. However, under current law, any money remaining in the FSA at the end of the year must be returned to the employer.

Nearly 37 million private sector employees have access to an FSA. However, only 18 percent of eligible employees take advantage of the pretax health care spending provided by flexible spending arrangements. Many employees cite the fear of forfeiting unused funds as the primary reason why they elect not to participate in an FSA. Those employees who do participate in an FSA often underfund their account rather than risk losing the funds at the end of the year.

Let me expound on that for just a minute because what happens in most flexible spending arrangements is that the employee chooses to take part of his monthly income, set it aside into one of these flexible spending arrangements, and that income that he removes from his paycheck is basically tax-free income, and that is a good thing. The employee likes that. However, it is still his income. And if he is afraid that he will lose some of that income at the end of the year because he has not used it for the specified pur-

pose in the account, then of course that employee is going to be very reluctant to set aside that money.

This use-it-or-lose-it rule does more, though, than discourage widespread participation. It can also lead to perverse incentives such as encouraging people to spend money on health care products and services that they do not necessarily need. In other words, at the end of the year, if there is money left in the account, the employee's incentive is to go out and get an extra pair of sunglasses or whatever it is and spend that money, and that in turn drives up demand, drives up the price of health care for everybody.

H.R. 4279 provides greater flexibility and consumer choice. The bill would allow up to \$500 of unused funds at the end of the year to be carried forward in that flexible spending arrangement for use in the next year, or that employee could begin a new HSA, a health savings account, and put up to \$500 into that health savings account.

I believe this bill will encourage greater participation in flexible spending arrangements and, to a lesser extent, participation in health savings account benefit plans because people will not be afraid of losing their hard-earned money. The Joint Committee on Taxation estimates that approximately 76 percent of current FSA participants will take advantage of the rollover option each year.

Through this legislation, we can expand access to health care for millions of Americans by making it easier for them to save for their health care costs. This bill would also reduce end-of-the-year excess spending and overuse of health care services, allowing FSA participants to benefit from the prudent use of their health care resources.

Mr. Speaker, I should point out that a nearly identical FSA rollover option was approved by the Committee on Ways and Means as part of H.R. 2351 on June 19, 2003. The provision passed this House last year as part of the Medicare Modernization Act.

Reducing health costs and increasing access to health care are worthy goals that every Member of Congress should support. H.R. 4279 takes an important step in that direction; so I encourage my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I stand here in just abject wonder at having 2 hours and 10 minutes to debate this bill over which there is very little controversy, a few dollars here and there; and I was going to ask the gentleman from Louisiana if he might accept a unanimous consent request that we cut the time in half, spend the first hour on this bill and spend the second hour debating whether or not Rumsfeld ordered the torture of prisoners in Iraq, and then we might have some more fun at least in the 2 hours we have got.

Does the gentleman agree?

Mr. MCCRERY. I object, Mr. Speaker. Mr. STARK. Mr. Speaker, it is kind of sad that this bill was not worked out in committee because the differences, which I will describe shortly, are simple and there could have been a compromise, it appears to me, and certainly we have a substitute which will come up and we, I think, have to discuss both.

Let us start out by suggesting that I would like to agree with the distinguished gentleman from Louisiana that it is probably a good idea to not encourage people to spend foolishly, to buy two extra pair of eyeglasses or go out for an extra shot of Botox or something at the end of the year just to use up the money in their flexible spending account.

The problem, and where we would disagree, is that the gentleman's bill is not paid for, and this does push us further into debt; and our bill and the differences, and we have some, is paid for. If the gentleman wanted to say let us compromise right now and pay for half of it, we could get this done in 15 minutes. I am easy. But that is basically our difference. The Republican bill creates more of a deficit, and it does discourage people from spending foolishly at the end of the year and it costs, what, 8 billion bucks over 10.

Therein is the major difference. I would like to discuss one minor difference which is complex and which our substitute drops. The gentleman from Louisiana, the Republican bill, allows members of a flexible spending account to transfer money into a health savings account. The only problem with that is that, insofar as the regulations appear now, one cannot have a flexible spending account and a health savings account at the same time, so that to transfer the money from the flexible spending account into the health savings account, they have to drop their flexible spending account, and then the next year they would not have 500 bucks to transfer.

I mean, it is a way to encourage, or perhaps force, people into dropping a flexible spending account and move into a health savings account. I am not sure that was his intention, but that is the reality. And there is almost no one who would qualify to transfer money, the \$500, say, from the flexible spending account into a health savings account. As a matter of fact, it is scored at 20 million bucks over 10 years; so if it is \$20 at maybe 1 million people who would use it, and if our purpose is to encourage health savings accounts, I would suggest to the gentleman that that is a separate debate and perhaps not really pertinent to the question of whether we should allow people this carryover and repeal the use-it-or-lose-it provision. Had we had a chance to mark this up in committee and work it out in some detail, I think we could have worked out a system, perhaps brought two bills to the floor.

The bill, I know, and I hate to be critical, but I know it is introduced as

a centerpiece of the week for the uninsured, and I am afraid that this bill does nothing for the uninsured. We cannot have a flexible spending account and not have access to insurance. So we really are not dealing with the uninsured here. People who have flexible spending accounts, as a matter of fact, probably have very generous and good health insurance coverage. So it is somewhat disingenuous, and that is the harshest thing I can think of, to suggest that this is going to have any effect or impact in Cover the Uninsured Week.

So if I could summarize just for a moment, there is a part of the bill which would help people and prevent them from frivolous spending from their flexible spending accounts. We concur in that, and our substitute includes that. Our major difference is, and we could have a vote, is it worth increasing the deficit by \$8.5 billion. We have some simple ways to pay for that. For instance, not letting corporations reincorporate offshore and avoid Federal income tax on their corporate income, a theory that has some bipartisan support.

There are some egregious loopholes that were dreamed up mostly by the Enron Corporation, which we also closed. I do not think anybody would suggest that those loopholes ought to continue. So in a minimal way, we changed the Tax Code to make this, and it is a principle, we ought to pay for things that we are providing, and that is it. We would leave the health savings account portion out. We would allow people to transfer the \$500 and carry it forward so they would not have a use-it-or-lose-it, and we would pay for it. Other than that I do not know what we could find to disagree about for the next 2 hours, but in my imitable way I will be just as disagreeable as the gentleman from Louisiana would like me to be.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his complimentary remarks about expanding, making more versatile the flexible spending arrangements. And I would not disagree with him on his comments about HSAs to the extent that I would agree that this legislation is not designed to encourage HSAs. That is not the intent of this legislation, at least not my intent as the author. My intent is, though, to make it convenient for employees who just may be in a firm that decides to create HSAs, give them kind of a head start on funding their HSA. I agree with the gentleman there will not be many instances of that in the near future; but in those few instances that there may be and an employee has \$500 left over in his account, I see no reason why he should not be able to take advantage of using that money, transferring it to the employer's new choice of health insurance for his employees, an HSA.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. MCCRERY. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, if I were to stipulate to the gentleman from Louisiana that we keep the HSA portion, would the gentleman agree to pay for it or some of it here, and we will have a compromise right now?

Mr. MCCRERY. Mr. Speaker, I believe we will state our objections to the substitute during the appropriate debate time on the substitute. So I would regretfully reject the gentleman's kind offer at this time.

Mr. STARK. Mr. Speaker, I thank the gentleman.

Mr. MCCRERY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, I thank the gentleman for yielding me this time.

I have been trying for some years now to push this concept, a bill that I introduced a number of years ago. With the knowledge that we have got, I do not know, maybe 37 million Americans who do have access to these flexible spending accounts, and I think many of us here probably know someone who does, maybe a spouse, if he or she is employed in the private sector, but the problem is that over half of these individuals do not utilize their access to FSAs because of this use-it-or-lose-it provision that we are trying to eliminate through this measure here today. And as we know, currently, the employer and the employee can set aside money before taxes into this flexible spending account and then that money can be used just like cash to pay for out-of-pocket medical expenses and insurance copayments and doctors' visits and even child care. The downside is that if they do not spend their money at the end of the year, they lose it, and it goes back to their employer.

I originally introduced this bill as a consequence of a conversation I had 4 years ago with my wife, who came home with yet another pair of glasses, and Marie said she purchased them not because she needed them necessarily. She liked them, but she said she did not want to lose the money in her FSA and her employer said that if she does not spend it, this money will revert back to the company.

□ 1330

So the rules governing FSAs force workers who have put in money to match the money put in by their employer to scurry around at the end of the year and wastefully spend their health care dollars, just so they do not have to forfeit it.

I do not know how many of you have seen the TV ads that run each December talking up medical procedures, reminding people to spend their unused FSA dollars. Now, that is a wasteful procedure. What is worse here is over half of the employees who are eligible do not sign up in the first place because they do not want to lose their

money. So this use-it-or-lose-it is the worst type of economic incentive. It discourages savings and, instead, encourages frivolous, needless spending.

So this initiative that I have introduced and has been picked up by the committee will allow workers to roll over up to \$500 of their own money back into their FSA at the end of the year, or, as mentioned, put it into a recently created Health Savings Account. I think it is a commonsense solution that will give peace of mind and let employees save for future expenses.

I encourage the Senate to take immediate action on this important legislation. We have pushed this for some years. We need to get it through the process, because FSAs are a commonsense, free market approach that allows people to take more control over their health care dollars. The use-it-or-lose-it provision must go.

Mr. STARK. Mr. Speaker, I am pleased to yield 6 minutes to the distinguished gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank my colleague and friend from California for yielding me time.

Mr. Speaker, let us make sure that we do not confuse our colleagues or anyone who might be watching this on what we are talking about.

First, flexible spending accounts, most people who have insurance, health insurance through an employer, are eligible to, pretax, ahead of time, declare how much they think they are going to spend out of pocket that will not be reimbursed by their employer's health plan. That way, you are using money that has not yet been taxed to pay for some of these services, a copayment that you may have for a service that you receive, or vision or dental benefits that are not covered completely under your health care plan where you pay out of pocket.

Those out-of-pocket costs, if you have a flexible spending account and you bank money in that account at the beginning, you can then use that money, you can bring down the account, and use that money, pre-tax, to pay for your out-of-pocket costs for your health services that are not covered by your employer's health care plan. A great idea, pretax dollars to pay for health care services. That is fine.

Then the notion under the current law, that if you have money in that account and you do not spend it down through your out-of-pocket expenditures to reimburse yourself for those out-of-pocket expenditures, by the end of the year anything left over you lose. So you have to calculate how much you think you are going to end up spending out of pocket beyond what your employer's health care plan would provide, and then hope you spend it all.

Some folks find themselves in a position where they still have money left over in this flexible spending account at the end of the year, and they lose that. That is a calculated risk.

This proposal to try to allow some flexibility in that use-it-or-lose-it rule says you could carry over a certain sum, I think it is about \$500, into the next year. So let us say you used up all but \$200 in your flexible spending account; rather than lose it at the end of this year, you would get to carry that over into next year's flexible spending account. So then you would be able to go ahead and budget based on what you think your needs will be next year.

A great idea. What is the problem? There are two.

First, you got to ask the question, why complicate such a simple, straightforward, and sensible idea to allow us to carry forward a portion of that flexible spending account money to the next year and to modify that use-it-or-lose-it rule? Why then complicate it by saying, by the way, which are going to let you send it over to what are called HSAs, these health savings accounts which are principally accounts which help wealthy folks or healthy folks when it comes to getting access to health care, because these HSAs give you money you can use later on to buy these catastrophic care plans for health care, which, for the most part, the only folks who can afford to do that, whether healthwise afford or monetarily afford, are people who are very wealthy or very healthy, because they do not have to worry about trying to find a health care plan, because they figure they are 25 years old, they are not going to die, or they have so much money they can pay for whatever services they need, or they have enough health care through other types of plans or insurance.

HSAs do not help the bulk of Americans. So why complicate this issue on a practical idea on giving us some flexibility on the spending accounts, the flexible spending accounts.

The second problem, there are 8.4 billion reasons in the second problem. \$8.4 billion is the cost this bill. The reason those \$8.4 billion are 8.4 billion reasons there is a problem with this is we are \$400 billion-plus in deficit this year for the Federal budget.

So it is something different if you are talking about a Federal budget that is balanced and saying we are going to spend \$8.4 billion more, because this bill does not tell us how we are going to pay for it.

So this is not a case where we are saying, well, the budget is balanced at the Federal level. We are taking care of all of our expenses. We are taking care of the needs of the soldiers in Iraq, which, by the way, the President just told us he needs another \$25 billion as a down payment. That is not saying that is going to cover the cost. That is a down payment.

We are being told in the education committees they are cutting the amounts of money we are spending for our kids in schools.

We are told that the President's budget proposes cuts in veterans services, for people who have served in our Armed Forces and are now veterans.

We are told in health care, believe it or not, the proposal in the House is to cut Medicaid spending for aged, blind, and disabled individuals in this country more than \$2 billion.

So were we talking about a balanced Federal budget, a proposal that costs \$8.4 billion and does not tell us how it is going to pay for itself, you may want to think about whether we should do that or not. But when you are \$400 billion in debt, the largest Federal deficit we have ever seen in the history of this country, to talk about not paying for this is crazy. Especially when it comes to education, veterans services, other health care programs, this Congress is requiring that there be a pay-for for any proposal that costs money.

One more time: If I want to increase health care services to aged individuals, poor seniors in this country, I have to find a way to pay for that proposal before it can get through this House. If I want to increase spending for our schools and all the children that go to our schools today, I have to find something to pay for that proposal before it can get through this House. But this proposal, as sensible as it might sound, does not need that. Especially when you add the part about sending money off to these HSAs, to these health savings accounts, which help wealthy and healthy individuals, it makes very little sense.

So a good idea, complicated by bad ideas within it, makes it very tough. That has sort of marked this whole session of Congress, and I hope we find a way to be more sensible about moving forward with ideas. The Democratic substitute addresses this, and I hope that we can vote for the Democratic substitute.

Mr. MCCRERY. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. RAMSTAD), a distinguished member of the Committee on Ways and Means.

Mr. RAMSTAD. Mr. Speaker, I thank the chairman for yielding me time, and I rise as a strong supporter and cosponsor of this important legislation.

Mr. Speaker, it only makes common sense to allow workers to carry forward unspent funds in their flexible spending accounts to the following year or to allow workers to roll the funds into a new health savings account.

This change is really long overdue. Flexible spending accounts are an important vehicle to help workers and their families save pretax dollars for medical expenses. Because of the tax savings, families can actually save up to 30 percent of the cost of out-of-pocket health care expenses by setting aside a portion of their income in a flexible spending account.

American families, families back home in Minnesota, know only too well that out-of-pocket expenses for health care have been rising at an astonishing rate. In fact, the cost for the average worker and their family has spiked over 100 percent since 1998, with no end in sight.

In spite of the skyrocketing health care costs and the significant tax savings associated with the FSAs, relatively few workers choose to take advantage of this vehicle to save for health care costs. The reason for that is simple: This stupid, arcane, absurd use-it-or-lose-it rule. This rule, this use-it-or-lose-it rule, makes absolutely no sense at all.

As absurd as it is, Mr. Speaker, workers are required to forfeit all unspent funds remaining in their FSA accounts at the end of the plan year. This use-it-or-lose-it rule is totally counterproductive, and it is a huge gamble to families, especially low- and middle-income families who can least afford to guess wrong and lose the unspent funds.

So what is happening is rather than facing that loss, many families with these FSAs rush to spend money at the end of the year, as my colleague previously expressed, often on high-cost medical items. How can we tolerate such a bizarre rule that actually discourages prudent spending on health care? It is time to end the use-it-or-lose-it rule.

Mr. Speaker, Ceridian Corporation, which is the leading administrator of FSAs for employers and is based in my district in Bloomington, Minnesota, estimates that while some 25 million, listen to this, 25 million American workers and their families are eligible to participate in health care FSAs, fewer than 20 percent actually choose to participate. It is obvious why. People do not want to take this gamble, and they are not impressed; in fact, they are discouraged by the use-it-or-lose-it rule.

This bill, which I applaud the gentleman from Louisiana (Chairman McCRERY) for bringing to the floor today, is very similar to legislation I introduced over 3 years ago, and thanks to the leadership of the gentleman from Louisiana (Mr. McCRERY), it is finally here today.

So it is high time, Mr. Speaker, that we address this important, unfinished business. It is time to help millions of workers and their families better afford rising medical costs. It is also time to prevent the wasteful end-of-year spending the use-it-or-lose-it rule now promotes.

I urge my colleagues to support this sensible and balanced reform. We have got to pass this legislation here today, and encourage the other body to follow suit.

Again, I thank the gentleman from Louisiana (Chairman McCRERY).

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to inquire of the gentleman from Louisiana, it is my understanding that you could use a flexible savings account to, for example, pay for abortion if your employer's health care plan did not provide that benefit. Is that not true?

Mr. McCRERY. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Louisiana.

Mr. McCRERY. Mr. Speaker, a flexible spending account, health flexible spending accounts can be used for any health care expenses incurred by the employee.

Mr. STARK. Mr. Speaker, reclaiming my time, there is nothing in this bill that would prohibit a woman from using the benefits of the flexible savings account for an abortion; is that correct?

Mr. McCRERY. Yes, sir.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me time and for a very thoughtful substitute. But I might associate myself with his earlier remarks.

There are such important issues of the moment that are confronting us today, the abuse of prisoners in Iraq, the tragic loss of life of Mr. Berg, and the need to be able to provide for safe passage and safe conditions of our United States military.

I almost feel somewhat shortchanged by discussing this legislation, as important as it is, because I think there is necessary leadership that is needed on crucial issues facing America, the peace and security of Iraq and the peace and security of our military.

But even though this bill has good intentions, let me argue that this bill is only an added burden on America's financial pocketbook. It costs \$8 billion. It is unpaid for with the bill on the floor.

The substitute is paid for, but when we add what I have heard in many of our metaphors, we add insult to injury by costing \$21 million extra. We, frankly, have veterans who are not able to get in veterans hospitals, and this bill, which serves really no purpose, it will actually undermine the health insurance benefits received by millions of Americans. It is confusing and complex. It makes a mess of a system that needs to be fine-tuned, not destroyed.

□ 1345

The majority of Americans already receive health care through employers, though 44 million are uninsured. That is what I would like to be doing here, is finding a way to provide insurance for the uninsured. I would like to be able to find a guaranteed prescription drug benefit for seniors and not have them use something that is confusing.

This one will offer a tax break, another tax break when we are needing monies to ensure the peace in Iraq, monies to keep veterans hospitals open, monies to get a guaranteed prescription drug benefit.

It sounds good. This coverage has a deductible of over \$1,000, and it sounds good; but think about it. The bill will serve to encourage businesses to cut your health insurance programs or

raise deductibles for their employees. Low- to moderate-income employees and those who are uninsured pay all kinds of taxes, payroll taxes, sales taxes, property taxes. However, they tend not to pay enough income taxes to take advantage of this new Republican give-to-the-rich scheme or get-what-you-can, or give-to-those-who-already-have.

Mr. Speaker, I would simply ask that we support the substitute, a paid-for program, and we do not give an extra gift of \$21 million that is unpaid for. Maybe after we do this, we can get to the floor of the House and find out how we can provide peace and security in Iraq, how we can stop the abuse that is going on, bring our soldiers not in harm's way, but away from harm's way, provide for seniors and those who are uninsured. I believe that is the right way to go.

Because, Mr. Speaker, let me say this. In my very district, there is a veterans hospital where I have to meet veterans every day who are asking why they are denied services at the hospital. And just as a note that we should bring to the attention of our colleagues, it is because we have a means test for allowing you to go to the veterans hospital and get your medical needs taken care of. If you make a certain amount, the door is closed.

My belief is, this Congress's obligation to veterans and those who enter the United States military is that we should continue our promise, and that is the promise that services will always be there. How can we do so if this legislation not only costs money and not be paid for, but adds an extra \$21 million for the health savings account? It would be far preferable to support the substitute which clearly pays for it, does not extend it to a health savings account, provides for creativity and flexibility, which I support, but focuses our attention on paying for those needs that are necessary to take care of those who cannot take care of themselves.

Mr. Speaker, I ask my colleagues to oppose H.R. 4279 and vote for the substitute.

It used to be that the most challenging part of my job here was finding meaningful ways of improving quality of life for the people in my district. Now it seems the most challenging part is trying to figure out how the Republican leadership will next try to deny those same people the lives they and their families deserve. Today's bill is one of the more creative approaches I have seen by the Republicans to advance their goals of giving their rich political donors big tax cuts, and denying the poor and middle classes healthcare and the services they need.

This bill serves no one that really needs it, and will actually undermine the health insurance benefits received by millions of Americans now. It is confusing and complex, and makes a mess of a system that needs to be fine-tuned, not destroyed. The majority of Americans now receive health insurance through employers. This bill will offer a tax break to people who do not have health insurance coverage, and those whose coverage

has a deductible of over \$1,000. It sounds good, until you think about it. This bill will serve to encourage businesses to cut their health insurance programs, or raise deductibles on their employees. Low- to moderate-income employees and those who are uninsured pay all kinds of taxes: payroll taxes, sales taxes, property taxes. However, they tend to not pay enough income taxes to take advantage of this new Republican-give-to-the-rich scheme. So the exact people who are now being left out of our healthcare system, and who need relief, are being left out of this bill.

The underlying goal of this bill is to dismantle the employer-based health insurance system that the chairman of the Ways and Means Committee hates. He has stated that he does not like employer-based health insurance because it shields people from the cost of healthcare and thus enables people to use health care too much. I don't see that Americans have made themselves too healthy. I want to increase access to care not decrease it, so I will vote against this bill.

Not only is this a bad bill, it is an expensive one. It will cost \$71 billion over the next 10 years—all money borrowed from our children and grandchildren. In the later years of the budget window, this bill will cost in excess of \$10 billion per year, and will accelerate just at the time when the baby boom generation retires, denying resources to meet our commitments to the Social Security and Medicare systems.

Again, it seems this bill was crafted to specifically target and destroy the elements of our healthcare system that people know and trust—Medicare and employer-sponsored coverage—and use the savings to give to CEOs, the healthy, and the wealthy. It is not surprising to find that due to the structure of this bill, the same people whose children were denied the benefits of a child tax credit will also not receive any benefits from this bill.

Of course they will be allowed to help pay the interest on the booming debt that it adds to.

I will oppose this bill and encourage my colleagues to do the same.

Mr. MCCRERY. Mr. Speaker, I would inform the gentleman from California that I now have two speakers that request time on my side, in addition to my closing. So I just wanted to let him know.

Mr. STARK. Mr. Speaker, if the gentleman will yield, I will then reserve my time and precede his closing and try and warm up the audience for what I know will be eloquent remarks.

Mr. MCCRERY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of the flexible spending arrangements. I am often baffled in this House when I have the opportunity to listen to the debate. We are talking about policy that will be far-reaching. Flexible spending accounts, flexible arrangements, medical savings accounts, health savings accounts are all plans that give flexibility and discretion to employers and employees. They give power, economic power, to employers and employees.

This is a much larger issue than how much this may cost this year because,

ultimately, it will save the government money. Ultimately, it will save individuals money. And, ultimately, it will save employers money which, in the long run, will mean that more people will be likely to access health care through their employer. That will, by the way, save the government some money.

One of the first things I heard about as a candidate for Congress was from one of the employers in one of the communities I represent. And he said to me, I want you to pay close attention to the law around medical savings accounts, flexible spending arrangements, the kinds of things that are supposed to be flexible for benefits for employees to give them economic power, but are not, because there are too many limits on them.

Today's bill removes one of those limits, or at least significantly reduces it, and that is this perverse incentive to quickly spend any of the unused money in the flexible spending arrangement, the use-it-or-lose-it rule. We change that today; and we say to the employee, if you do not need to use that health care right now, you do not need to. You do not need to waste the money. You can roll that over to next year; and if something happens next year that you need it, you can use it. And if you do not need it next year, you can roll it over. Does that not just make sense? Should we not in Congress be the ones who are providing the flexibility and the options to the employee, not putting crazy limits on them?

This is a great bill, and we should go even farther than this and allow employers and employees to work together to provide more options for them to provide health care for their families, not fewer. Fewer limits, more options and, ultimately, more opportunity for employers to provide health care. Ultimately, it will provide opportunity for us to put downward pressure on the costs of health care, also downward pressure on the costs of health insurance, because there will be more competition, more flexibility, more opportunity, and more coverage. More coverage is ultimately what we want, and this bill will help us get there.

Mr. Speaker, I commend the gentleman from Louisiana (Chairman MCCRERY); I commend the members of the Committee on Ways and Means for moving this forward. Because that employer back home, he is not by himself. He wants to continue to provide good and flexible health benefits for his employees. They are like family to him. Most of the employers in my district are small employers. They want to provide health care. It has become so expensive in what people traditionally thought of, they cannot afford it. With flexible arrangements they can, and they can continue to provide it into the future.

Mr. STARK. Mr. Speaker, I reserve the balance of my time.

Mr. MCCRERY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time. I appreciate the opportunity to say a few words about this issue of H.R. 4279.

I am a former employer. I started a business in 1975; and I met payroll for 28 years, 1,400-and-some consecutive weeks. I was one of the first employers in my industry to provide health insurance for my employees. It was a difficult thing to do because of all of the Federal constraints that made it difficult for a small business to compete with large business. This is rooted back in World War II when there were wage and price controls, and employers that tried to find a way to offer additional benefits or wages to their employees were able to deduct health insurance benefits for them as an expense and then offer that as a quasi-raise or in the form of a benefit, an increase in compensation for their employees.

The legacy of that remains today in Federal law. We have legislation that continually makes it difficult to have the flexibility necessary for businesses to work with their employees so that they can have a legitimate health care plan. We have had to find ways around Federal regulation to do that. H.R. 4279 helps us so that we do not have to jump around that one or find another way to get things done.

I remember a Congressman coming into my district in the early 1980s making a pitch for a national health care act. And I remember in that room of about 80 people, in the end I was the only one of the employers in the room that provided health insurance for my employees, and I remember fighting off that effort of going for a national health care because we need more individual responsibility so that we have more individual decisions made, in the vision of Adam Smith and the invisible hand.

We have today evolved into a health care system that has more and more HMOs, fewer and fewer entities making decisions about more and more people, to the point where the patients now have gotten the mindset more of sheep of submitting themselves to the process rather than making decisions on their health insurance and on their health care. H.R. 4279, again, short-circuits some of that, gives us a little more freedom and puts flexibility into the process.

I remember when the previous President was elected in 1992 and the First Lady came out with a plan that many of us have described as the Hillary Care Plan. I have that flow chart on my wall in my office in Iowa that scares me half to death as an employer looking at a national health care act versus individual flexibility. We have two choices here, and the people that are against this bill are the ones that are preserving what they can of the opportunity to build a Federal health care Canadian-style plan.

Mr. Speaker, H.R. 4279 helps us get more decisions in the hands of more

people so that they make their individual decisions in an efficient fashion, the way that the gentlewoman from Pennsylvania (Ms. HART) described. It gets rid of that perverse incentive of spending the money at the end of the year because you cannot roll those dollars over.

So I applaud the authors of this bill, the people who worked so hard on it. I appreciate the opportunity to speak in favor of H.R. 4279.

Mr. STARK. Mr. Speaker, I yield 6 minutes to the gentleman from Washington (Mr. McDERMOTT), as we are blessed with his late arrival.

(Mr. McDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, it is always good to come out here and talk about an important issue. We have had a wartime President who has wanted to talk about war: I am a wartime President, I am doing this, I am doing that. I wish we had a domestic President who would occasionally think about what needs to be done on the domestic scene.

This particular little bill is what they are going to hold out for their evidence that they care about domestic health problems in this country.

Now, I do not know; it would be laughable if it was not so sad that this is the only bill that they can come up with. I know my good friend, the gentleman from Louisiana, knows, he and I share the desire for everyone to be covered in this country, and the only thing that separates us is how to do it. And for this to be offered as one of the ways that we are going to make it easier is simply, well, they will have to say they have passed something. I think it is called the flexible savings and health savings account rollover. That will be a title that will certainly sound like they did something.

The idea of health savings accounts goes against the basic issue here in how we ought to be dealing with health care. We do not have any problem in thinking that we should do fire departments collectively. We do not call them socialistic or whatever. They do not look to Canada for how to run a fire department. We started that in 1754, and police departments and roads and schools, all of those issues we deal with together. But in health care we say, hey, baby, you are on your own. You and you and you and you and you, you are on your own.

Now, if you have a job that takes care of you, oh, well, you are lucky; you have the plastic, you are in good shape in the lottery. I have a piece of plastic in my pocket. Everybody has one in their pocket or in their purse, and that plastic keeps you in the game. But God forbid that you do not have a piece of plastic.

Now, the answer for those 40 million people in this country who do not have plastic is, well, why do you not have a health savings account? Yes, that is a good idea. You can take your money,

and you can put it in that health savings account and buy yourself a \$10,000 deductible program and everything that comes up you can use the money out of the health savings account to pay for it, and it will work wonderfully.

The problem with this whole thing is the idea that people have \$4,500, or whatever the number is, to put into their health savings account is nonsense, and it puts people on their own.

The idea of putting people on their own works very well for some people in this society, people who are rich. I mean, golly, if you are the head of Enron, you have a few extra dollars, you can just throw it into a health savings account; and if you happen to have a little problem that takes your life in some direction that costs a lot of money, well, you can take it out of your pocket. But all of those employees that were working for Enron that suddenly got dumped out in the street because crooks were running the business, they do not have anything. They could have their health savings account. Maybe it would cover, maybe it would not, but where are they going after that? Enron is not coming back, so after the first year, okay, where are you going to go?

□ 1400

How do you cover yourself in a situation when you are out there alone? The individual market in this country is a mess. No one can afford it because they can look at each one of you and say, well, you look to me like you have the possibility of X, Y and Z and we are going to charge you \$1,000 a month.

The average person has trouble taking that kind of insurance. So having this savings account, I put that \$4,500 in I did not have, I put that in there and then I get sick.

I had a friend who went in the hospital with a heart attack. He was in the hospital 2 days, and the hospital bill alone was \$10,000. So it could happen to anybody. Any Member of the Congress, anybody on the street can end up in the hospital and spend that deductible just like that. Where do they have the money to pay for it? I do not know how they are going to get some of it out of this health savings account.

Now, this bill is predicated on the idea that they will never get sick and that at the end of the year they are going to have some money left. The idea is at the end of the year you have not been sick so you have got this money laying in your account so you can roll it over into the next year. Well, that is a nice idea. It would probably help maybe 15, 20 people in this country, maybe even 1,000, but it does absolutely nothing for 40 million people out there with no health insurance, and this is why this is a joke.

We will pass it, of course. Nobody is going to vote against it. Well, I do not know, some might, but the fact is that it is not dealing with the problem that

faces us, and if our war President would pay a little more attention to the domestic and not cut taxes everywhere in sight, we would have some money.

Part of the problem is what is happening at the State now, because even Medicaid is going away, lots of States do not even put senior citizens into their Medicaid program. Only 34 States have a Medicaid spend-down for seniors.

This country is in a mess, and this bill does not do anything.

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

I want to commend the last speaker, the gentleman from Washington, for his efforts year after year in trying to solve the problems in our health care system. I disagree with him occasionally on how we should do that, but I think he is well-intentioned and certainly deserves credit for his efforts.

However, his comments about the Enron employees, I cannot help but stand up and point out to him that had those employees had HSAs, instead of Enron providing first-dollar coverage insurance, they would still have insurance today. They would have their HSAs because they are fully portable and an employee can take an HSA from job to job. If he loses his job, he can use what is in his HSA to pay premiums on a new health insurance policy. So I just wanted to point out to the gentleman that those employees would have been a lot better off if they had HSAs rather than the Enron-provided health insurance.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for his comments and I would close just briefly.

I believe that the Enron employee would not have insurance. He would have some money in that health savings account, but when Enron folded up, the insurance went along with Enron. He could go into the private market and try and buy something.

I would just like to repeat, if I may, that this really does nothing to cover the uninsured. So, if this is Cover the Uninsured Week, we are burning up a couple of valuable hours that we could be discussing how to cover the uninsured with this bill.

The principal disagreement that we had with the bill is that it is not paid for, and we will offer, subsequently to closing this debate, a substitute where we pay for it in very patriotic and simple ways. It is not a lot of money but it is a principle that we Democrats have long adhered to, and that is, that we ought to pay for the wonderful things that are available to us in this country and not put the burden on our children and grandchildren.

So, having said that, and without fear of contradiction that I probably have more children and grandchildren than the combined audience here, I can qualify, if the Speaker will allow me,

as an expert in that area. And maybe I am a little touchy about it, but will conclude our debate on this and I appreciate the gentleman from Louisiana. Next time I hope we can resolve these differences in our committee and come to the floor, as we did in the good old days, with a unified approach to Medicare and health insurance problems.

Mr. Speaker, I yield back the balance of my time.

Mr. McCRERY. Mr. Speaker, I yield myself such time as I may consume.

The bill before us today is a very simple bill. It will provide employees, whose employers give them the opportunity to participate in flexible spending arrangements, more flexibility to utilize those arrangements and, indeed, encourage employees to do just that, and if they have money left in their account at the end of the year, under the bill, up to \$500 can be rolled over into their next year's flexible spending arrangements or rolled into a new health savings account, thereby avoiding the discouraging factor in the law today of use it or lose it.

Right now, today, if there is money left over at the end of the year, the money goes back to the employer. That is why employees do not want to participate because they do not want to lose part of their income, and that is understandable. It is kind of silly that Federal law would dictate that.

We are trying to correct that today. It is very simple. I urge the Members to vote in favor of this good bill today.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). All time for debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. STARK

Mr. STARK. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. Is the gentleman the designee of the gentleman from New York (Mr. RANGEL)?

Mr. STARK. I am.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part A amendment in the nature of a substitute printed in House Report No. 108-484 offered by Mr. STARK:

Strike all after the enacting clause and insert the following:

TITLE I—DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS

SEC. 101. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

“(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

“(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than \$500 of unused health benefits may be carried forward to the succeeding plan year of such health flexible spending arrangement.

“(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the term ‘health flexible spending arrangement’ means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

“(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term ‘unused health benefits’ means the excess of—

“(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

“(B) the actual amount of reimbursement for such year under such arrangement.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

TITLE II—ENRON-RELATED TAX SHELTER PROVISIONS

SEC. 201. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 of the Internal Revenue Code of 1986 (relating to basis to corporations) is amended by adding at the end the following new subsection:

“(e) LIMITATIONS ON BUILT-IN LOSSES.—

“(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

“(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

“(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

“(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

“(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

“(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.

“(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

“(A) IN GENERAL.—If—

“(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

“(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair mar-

ket value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

“(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

“(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.”.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) of such Code (relating to liquidation of subsidiary) is amended to read as follows:

“(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

“(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

“(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions after the date of the enactment of this Act.

(2) LIQUIDATIONS.—The amendment made by subsection (b) shall apply to liquidations after the date of the enactment of this Act.

SEC. 202. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

“(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

“(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 203. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) **IN GENERAL.**—Paragraph (2) of section 163(l) of the Internal Revenue Code of 1986 is amended by inserting “or equity held by the issuer (or any related party) in any other person” after “or a related party”.

(b) **CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.**—Section 163(l) of such Code is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

“(4) **CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.**—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.”.

(c) **EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.**—Section 163(l) of such Code, as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

“(5) **EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.**—For purposes of this subsection, the term ‘disqualified debt instrument’ does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term ‘dealer in securities’ has the meaning given such term by section 475.”.

(d) **CONFORMING AMENDMENTS.**—Paragraph (3) of section 163(l) of such Code is amended—

(1) by striking “or a related party” in the material preceding subparagraph (A) and inserting “or any other person”, and

(2) by striking “or interest” each place it appears.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 204. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) **IN GENERAL.**—Subsection (a) of section 269 of the Internal Revenue Code of 1986 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

“(a) **IN GENERAL.**—If—

“(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

“(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

“(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to stock and

property acquired after the date of the enactment of this Act.

SEC. 205. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) **LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.**—Paragraph (2) of section 1297(e) of the Internal Revenue Code of 1986 (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

“Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

TITLE III—PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX

SEC. 301. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) **IN GENERAL.**—Paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) is amended to read as follows:

“(4) **DOMESTIC.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

“(B) **CERTAIN CORPORATIONS TREATED AS DOMESTIC.**—

“(i) **IN GENERAL.**—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

“(ii) **CORPORATE EXPATRIATION TRANSACTION.**—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

“(iii) **LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.**—Subclause (II) of clause (ii) shall be applied by substituting ‘50 percent’ for ‘80 percent’ with respect to any nominally foreign corporation if—

“(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

“(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

“(iv) **PARTNERSHIP TRANSACTIONS.**—The term ‘corporate expatriation transaction’ includes any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquir-

ing corporation’) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

“(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

“(v) **SPECIAL RULES.**—For purposes of this subparagraph—

“(I) a series of related transactions shall be treated as 1 transaction, and

“(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

“(vi) **OTHER DEFINITIONS.**—For purposes of this subparagraph—

“(I) **NOMINALLY FOREIGN CORPORATION.**—The term ‘nominally foreign corporation’ means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

“(II) **EXPANDED AFFILIATED GROUP.**—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

“(III) **RELATED FOREIGN PARTNERSHIP.**—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.”

(b) **EFFECTIVE DATES.**—The amendment made by this section shall apply to taxable years beginning after the date of enactment of this Act.

The **SPEAKER** pro tempore. Pursuant to House Resolution 638, the gentleman from California (Mr. STARK) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Our Democratic substitute addresses a real issue of concern with respect to flexible spending accounts in the use-it-or-lose-it rule.

We agree with the author of this legislation that it is unwise to create an incentive for people to spend foolishly or frivolously for a benefit that they might lose, and we have the Washington Business Group and 50 major corporate members are clear on the issue. They want the changes and they want the money carried over into FSAs. The position is shared by their employees. There is some question, and nobody really has raised it previously, as to putting this money into health savings accounts, but because that is such a minor issue it could be overlooked.

The real question here is whether we should pay for this. And it will be expensive. It is \$8 billion. That is money that could be used in many programs, education programs, environmental programs, health programs, and it is a principle to which we are dedicated, and that is that we would like to expand health care in this country, but we have never offered a plan that we

will not pay for. And I find it sometimes difficult when my opponents across the aisle will not even give us a plan that costs nothing.

My Republican friends are opposed to expanding COBRA benefits. They are very expensive for people, but some 40 million people have used them since we wrote that bill on a bipartisan basis to expand COBRA benefits until a person gets another job or until they mature into Medicare. Costs zip, nothing, nada. It costs the employer nothing. Why do we object to expanding COBRA benefits? Just because it is a government plan and obviously people on the other side of the aisle do not like the government helping people unless they are very rich, of course.

So here we have just another example of not a bad piece of legislation. It could use some improvement, but it is a freebie and will predominantly benefit people in good jobs, with good health insurance and expand another tax loophole.

It is a modest one, but it is a principle. Left unchecked, we would soon have almost no tax revenue in this country at all, a position which the Club For Growth would applaud, but I am sure that those of us who are on the Federal salary or those people who are defending us now in Iraq would object to.

So I hope that we could reverse this disastrous rush to the bottom of debt and begin to be responsible in how we legislate by paying for these provisions. We will hear more later from my colleagues on the really very useful ways that it will help our economy if, in fact, we did pay for this bill under the provisions of our Democratic substitute.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCRERY. Mr. Speaker, I rise to claim the time in opposition, and I yield myself such time as I may consume.

Before I get into the specifics of objections to the "pay fors" on the Democratic substitute, I would point out to the gentleman from California that it was under the leadership of this committee and on a bipartisan basis 2 years ago to, in fact, expand COBRA in the Trade Adjustment Assistance Act whereby we, the government, now will pay up to I believe 65 percent of the premium for someone's COBRA benefits when they are unemployed due to trade adjustments. So, in fact, I agree with the gentleman that we should indeed encourage people to continue their health insurance when they become unemployed, and we have endeavored to do that with taxpayer dollars.

With respect to the bill at hand and the substitute offered by the gentleman from California, it is true that most of the cost of the bill is paid for; not all the cost of the bill, but most of the cost of the bill is paid for by the minority's substitute, but the manner they choose to pay for this health care benefit I think is quite objectionable.

About half, in fact, maybe a little over half, of the revenue that would be produced by the Democratic substitute is produced by a retroactive application of a change in the law which would affect companies that made a determination which was legal 30 or 40 years ago. And I do not know of anyone who thinks that that is a fair result, to impose suddenly a penalty on a company that in good faith operated under a law 30 or 40 years ago and have been operating that way ever since. So I would hope that this body would not suddenly choose to use a punitive, retroactive change in the law to penalize companies operating in good faith for decades under the United States Tax Code.

So that is the most objectionable part of their "pay for." The other parts simply amount to a tax increase on business in this country. Those changes, in fact, could result, and it has been estimated by Treasury and testified to by Treasury officials, that these changes in the Democratic substitute would actually encourage foreign takeover of United States companies, and I do not think that is the result we want in this body for the American people or for American companies.

So, Mr. Speaker, while I may have some sympathy for the minority's desire to pay for legislation, I think the manner they have chosen to pay for this particular bill is ill-advised, and I would hope that this House would reject the substitute and pass the underlying bill.

Mr. Speaker, I reserve the balance of my time.

□ 1415

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume, before I recognize the distinguished gentleman from Massachusetts, to remind my good friend from Louisiana that the tax provisions in our substitute were recommended by the bipartisan, bicameral Joint Committee on Taxation; and these provisions have already passed on a bipartisan basis in the other body.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. NEAL) 2 minutes for economic logic and 2 minutes for righteous indignation, for a total of 4 minutes.

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for yielding me this time.

One of the problems here in having a dialogue is that sometimes the facts do not square with the dialogue. Now, the gentleman from Louisiana (Mr. MCCRERY) is one of the better people in this House; a good Member of the Congress and a very nice guy to work with. But where is the sympathy for those companies that stayed here? What about those companies that pay their

taxes every day? What about those who did not attempt to escape in the dark of night to Bermuda for the purpose of avoiding American corporate taxes? Where is the sympathy for them? Their competitors can go offshore with a phony post office box for \$27,000 a year, and then they avoid any share of the burden that the rest of the American taxpayers face for financing small things like Social Security and Medicare and paying for this war in Iraq and Afghanistan.

I would like to put this issue in front of those 134,000 troops in Iraq for a vote and see where we go on that issue. We hear about these companies that have been gone for 30 or 40 years. Let us get something straight, Tyco has been gone since 1997, Ma and Pa Tyco, that avoid paying \$400 million a year in corporate taxes. Tell that to the parents of those men and women and wives and husbands of those men and women in Iraq and Afghanistan.

We make it sound as though these companies are under great duress when they avoid paying corporate taxes. I would ask this for the listening audience today as well. What do you think the IRS would do to you on Monday if you got up and said as an individual that you were going to Bermuda for the purpose of denying American citizenship, but only for the real purpose of avoiding your share of taxes in America? That is what we are asking today.

This is a decent proposal that is before us. All we are saying on our side is let us discuss how you pay for it. That is the important reminder for all of us.

The Rangel substitute with flexible spending accounts is not only a popular employee benefit because it allows pretax dollars to be used for dependent care expenses or medical expenditures not covered by insurance, but in fact, except for the staff of this Republican-run House, most of the employees of the Federal Government have had the opportunity to indeed utilize FSAs.

But today we could be debating whether FSAs might even be more flexible, allowing employees to roll over unused funds from one year to the next. But the leadership has decided that once again we are going to come to the aid of their favorite constituency, the healthy and the wealthy. We never have time in this institution to take up anything that might be of benefit to middle-income taxpayers, to the working poor of this country every day who do not have any health benefits; but we find plenty of time for the purpose of cutting taxes for the wealthiest Americans.

And let me just go back to this subject again, and I hope people are paying attention in this sense: we are now fighting two wars, and the answer of this Congress to two wars: three tax cuts. We are going to come in with a \$25 billion request now because we all know what the real cost of that incursion into Iraq is going to be, not only in terms of human life but, just as importantly, in terms of the financial

burden it will be to the American people. So we roll it out in small increments.

We should begin to pay for some of these initiatives that come through this House. By the way, that used to be the historic position the Republican Party adopted. Today, it is borrow and spend.

The Rangel substitute would allow workers to roll over their FSA money from one year to the next without any budget impact that is negative. But because this benefit costs money, the Rangel substitute would pay for it by closing down a loophole.

All I ask is this, Mr. Speaker. If the position that I have adopted on these companies that go to Bermuda is so bad, why is it that almost 2½ years later the majority will not give me an up-or-down vote in this institution? Put this in front of the body here. Square it with those men and women in Iraq. Close down this Bermuda loophole, and let everybody pay what they are supposed to pay.

Mr. Speaker, I rise today in support of the Rangel substitute. Flexible Spending Accounts have proven to be a popular employee benefit, allowing pre-tax dollars to be used for dependent care expenses or medical expenditures not covered by insurance. In fact, except for the staff of this Republican-run House, most of the employees of the federal government have had the opportunity to utilize FSA's. Today, we could have been debating whether FSA's should be even more flexible—allowing employees to roll-over unused funds from one year to the next. However, the leadership has decided to instead to once again prop-up its favorite tax shelter for healthy workers.

The Rangel substitute would allow workers to roll over FSA money from one year to the next and would do so without any negative budget impact.

Because this tax benefit costs money, the Rangel substitute would pay for this worker benefit by closing the loophole allowing former American companies to move their headquarters offshore for tax avoidance.

Corporate expatriation accounts for \$5 billion in lost taxpayer revenue over the next decade. Today, we debate a substitute that shows us exactly what we could be doing with that money: providing greater employee benefits. Why should the workers of America be supporting corporate tax dodgers? Consider that in 1997, Tyco renounced its corporate citizenship and changed its mailing address to Bermuda to avoid paying nearly \$400 million a year in U.S. taxes.

While many in the House have expressed outrage since this loophole was first exposed two years ago, the Leadership has done nothing but cement the loophole with legislation protecting Tyco and those that have already left.

Since I first filed the bipartisan Corporate Patriot Enforcement Act to end this tax subsidy, these corporate expatriates have enjoyed almost one billion dollars in U.S. federal government contracts annually, 70 percent of which are defense or homeland security related. Our colleagues in the Senate have passed as recently as yesterday legislation to close this loophole affecting those that are considering the island tax havens and those

that are already exploiting this loophole. But in this Congress, we wait.

For those that profess to care about the exploding budget deficit, for those that claim to hear Chairman Greenspan's warning about the harm this historical budget deficit is doing to our economy, you must at some point decide that bills that pile on more federal debt are wrong. I urge my colleagues to support the fiscally responsible Rangel substitute, which makes the corporate tax cheats and those that forsake America in a time of war pay for improving benefits for American workers.

Mr. McCRERY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means.

Mr. ENGLISH. Mr. Speaker, it has been fascinating to appear several times on the floor during recent weeks to hear the debate on tax bills that seem to lurch in the direction of Iraq and wander all over the public policy landscape. I would like to bring the debate today back to the core issue of the bill that is before us and whether the substitute is actually an improvement on it, and I would argue that it is not.

Mr. Speaker, the underlying bill that we have before us today would provide increased medical security, not as my friend, the gentleman from Massachusetts, has suggested, for the wealthiest Americans, but for many American workers. When flexible spending accounts are offered by an employer, their tax-preferred nature offers a powerful incentive for workers to contribute to and grow these accounts. Unfortunately, current law perversely influences these incentives by pushing workers who have built up an FSA to spend the money in the account if they have not used it by the end of the year.

This use-it-or-lose-it policy defeats the positive benefits of an FSA, which is why many eligible workers have chosen not to open FSAs. When workers use the hard-earned dollars they have contributed themselves or earned from their employers, they will ask more questions, further inform themselves, and become better consumers, for example, of health care products. If they lose these dollars at the end of the year by simply not having the necessity for them instead of becoming better health care consumers, they become, in a sense, over-users of health care.

Through allocating \$500 of unused FSA funds to be carried forward or rolled over into a health savings account, FSAs and HSAs can thrive and become the practical vehicles they were intended to be for working families who want to manage their own health care.

It is important to point out that the substitute, unlike the underlying bill, does not allow the unused funds to be transferred to the new HSAs. This is an essential component of the legislation because it encourages the HSAs, which embody similar pro-consumer and pro-worker principles as the FSAs.

Employers are just beginning to offer HSAs, so now is not the time to dis-

courage a health savings account, but to promote it. Let us not take a step backwards by passing the substitute. It is bad policy, it is poorly thought through, and I think that we ought to be looking at how we can provide workers with more opportunities to have these kinds of accounts, not fewer.

These are not the wealthiest people in America. These are people who want the opportunity to manage their own health care, to manage their own resources; and we are giving them an opportunity to accumulate more of those resources in this bill.

Mr. STARK. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I visited with a group of small business people from Texas this morning who came to discuss, among other things, their concerns about being able to provide health coverage for themselves and for their employees. Their stories were very similar to ones I have heard while visiting with small retailers in Phaw and in Mission, Texas, and in talking with musicians in Austin, Texas—that we have a growing crisis in this country in trying to ensure that working Americans can get the health protection and the health insurance access that they need.

As I talked with them, one of the concerns that I raised was this need versus another one that is also the tragic result of the misleadership of this administration and this Republican Congress. They are driving our country into an economic ditch with the largest deficit in the history of America last year, to be surpassed this year, and to be exceeded in the future under a broken economic scheme.

In fact, the deficits are rising at such a rate that our Republican colleagues are continually coming to ask for an increase in the debt ceiling. They will have to do it again in the very near future. I think they probably need to keep an extension ladder in this House so that they can continue raising the ceiling upward, up to what will become \$10 trillion or \$11 trillion. That is trillion with a "T" that they will be raising the debt ceiling to as a result of their misguided economic policies and their willingness to give tax break after tax break to those at the top of the economic ladder without paying for it. They get it for free.

Today, we have another example of that. We have an example of an unwillingness to consider the cost and the burden on future generations of Americans and the adverse effect on our economy of continuing to incur more and more debt, as has been true in the past, by adding more and more tax breaks.

So we have come forward with a substitute and said that if you are going to make these changes—even though this is probably not the most efficient way to deliver health care and there are much preferable approaches—but if you are going to do this, at least pay

for it. Do not add more and more to the national debt.

And we have done it in very reasonable ways. One is to deal with something that Republicans in this House would like to forget about as just ancient history: the scandal called Enron, the scandal that led to so much trouble for our economy and to a reduction in the public's confidence in our economic marketplace.

Enron manipulated our tax laws. In fact, as *The Washington Post* reported last year, Enron was turning its tax department into a profit center. Its senior executives, along with leading accounting, banking, and legal advisers were seeking to manipulate tax laws through complex concealed transactions. These were transactions that involved things like synthetic leases. These were transactions that, as one of their people reported, were so intentionally complicated it would take a year or more to construct a single deal.

Well, we have adopted in this substitute very modest proposals, recommended by the Joint Committee on Taxation and approved overwhelmingly in the United States Senate, to do something about those Enron tax abuses. What has the House of Representatives done in the two years since these abuses were disclosed? Absolutely nothing. The Senate was willing to look at the tax returns of Enron to see how these manipulations occurred, but the House Committee on Ways and Means was afraid to look under that rock because it knew the scandal it would find. They have been unwilling to address this problem.

The same is true of the unpatriotic corporations that retreat to Bermuda or Barbados, who basically say that they do not want to pay their fair share of our homeland security and defense. Oh, yes, they are proud of our flag when they want our fighting men and women defending their position. They are so proud of our flag when they are being defended by our Armed Forces. They are so proud of our flag when they want to do business with the United States Government.

Some of these same unpatriotic corporations come and ask for hundreds of millions of tax dollars in government contracts. In fact, one contracts with the Internal Revenue Service. Another one contracts with the Department of Homeland Security. On the one hand they will not pay their fair share of taxes, but they sure want all the tax money they can get in contracts with the government.

We have a proposal to pay for health care through reforms to prevent another Enron scandal and through reforms that simply ask for a level playing field. Those corporations that want the protection of the American flag ought to be willing to pay their fair share.

The Committee on Ways and Means and the Republican leadership in the House will never make these needed changes unless they are forced to do it

through proposals just like this. They feel so comfortable with the Enron philosophy that a tax department is a profit center that they will continue to defend these abuses.

I ask your support for the substitute.

□ 1430

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, there was a story in yesterday's *Detroit News*, Michigan's uninsured swells by 100,000 last year to 1.2 million people. I do not see how this bill will reduce that amount at all. This is supposed to be the week where we pay attention to the uninsured, but this bill really does not do that. It really turns away from them. I think we very much need to keep that in mind. That is the first point.

Secondly, it allows the transfer to savings accounts which really can become a dodge to escape taxation altogether. Even though it is a small amount of this, it is a serious mistake. We do not need more tax shelters in our Tax Code. We should not be feeding any moneys whatsoever into those shelters. This is what this bill in part does.

My third point, the gentleman from Louisiana (Mr. MCCRERY) works very hard on tax issues and knows the Tax Code well. I think this is a good pay-for. I think it is really irresponsible to bring another bill forth to this floor and not pay one dime. It is going to add \$8 billion plus to our deficit.

And the last aspect of this is the following: If they do not like this pay-for, come up with their own, but do not come here without anything to say as to how it will be paid for except by our children and our grandchildren. I support the substitute.

Mr. MCCRERY. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. RYAN), a distinguished member of the Committee on Ways and Means.

Mr. RYAN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding me this time and for bringing attention to this issue.

I want to make three points. Number one, we are hearing all of this hue and cry against allowing people to roll their flexible spending accounts \$500 a year over into the next year. There is a reason why it is important to allow a person to roll their money over from one year to the next: We are not getting the kind of consumer activity and consumer reforms we want in health care when we deny an employee the ability to keep the money in their account from one year to the next. What ends up happening with the flexible spending account is when there is a balance at the end of the year, the employee goes and buys a couple pairs of eyeglasses, gets their teeth cleaned a

couple of times, more money is spent and it props up health care inflation.

What this reform does, it lets the employee know this is their money. More importantly, what this bill does and what the Rangel substitute denies is the ability to roll over \$500 from their flexible spending account into a health savings account. They say this health savings account is a new tax shelter.

Mr. Speaker, what a health savings account does is it lets people spend money on health care tax free. We can deduct the cost of health insurance on corporate tax rates when corporations pay for health care for their employees; why cannot employees and individuals deduct the cost of their health care expenditures on their income taxes? That is what HSAs do.

Take a look at what health savings accounts have already produced, only having been in law since January 1; 37 percent of all health savings accounts sold went to people who previously were uninsured; 18 percent of those people had preexisting conditions, people who had sicker risk profiles. And 47 years old was the median age of a person who bought health savings accounts.

So to the critics that said only wealthy, only young, only insured people would be buying HSAs, all of that is being proven untrue with the results that are taking place today in the marketplace. But more importantly is the fact that the Mercer Study just did a survey and they noted that 73 percent of all firms in America who offer their employees health insurance are considering giving an additional option of health insurance through a health savings account by 2006. By denying your employees the ability to take the money that is in their flexible spending account, which is controlled by the employer, and put it in their own account, which goes to the employee, is simply saying you are not going to let the employers give this money to the employee and be part of the employee's property.

It is very important that we allow the employees to keep this money and use this money for their own health insurance and to do so tax free so we end the bias in the Tax Code right now that is against giving people the ability to spend money on health care on a tax-free basis. This is how we get the employee and the consumer back into the business of buying health care.

I urge rejection of the Rangel substitute and adoption of the base bill.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to suggest to the gentleman from Wisconsin (Mr. RYAN) that we do not on this side have any objection to the rollover. We think it is a good idea, and all we would suggest is that we have to pay for it. That is the only difference.

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Is the gentleman opposed to rolling over the FSA money into an HSA?

Mr. STARK. Actually, I am opposed to it in general, but I offer to the gentleman from Louisiana (Mr. McCRERY) that we would accept that if he would pay for half of the bill. That is compromise.

Mr. RYAN of Wisconsin. The vote we are faced with, the Rangel substitute, is denying people the ability to keep this money. It denies people the ability to put their FSA money into an HSA.

Mr. STARK. It only denies the HSA, which they think is going to be a small number. There is still time to negotiate.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Ms. DeLAURO).

Ms. DeLAURO. Mr. Speaker, I rise in support of the Rangel substitute. Like the underlying bill, the substitute permits up to \$500 of unused benefits in the employee's health flexible spending arrangement to be carried forward to the employee's FSA account for the next plan year. However, this substitute does not permit unused benefits to be contributed to an employee's health savings account, which in fact we know to be a tax shelter for the healthy and for the wealthy.

This substitute is paid for, which is the principal reason why we have this substitute and why we are opposed to the underlying amendment, not by driving us deeper into debt. How do we pay for it? We eliminate the tax benefits that corporations receive when they reincorporate overseas for the express purposes of avoiding U.S. income taxes. They do not want to pay taxes to the United States of America. These so-called corporate expatriates, they enjoy all of the benefits of corporate citizenship in America. They look like U.S. companies, their stock is principally traded in the United States, and their physical assets are protected by our Armed Forces. They just refuse to pay for the benefits as every other American citizen or other companies do.

Countless companies engage in this practice: PriceWaterhouse Coopers Consulting, Accenture, Tyco, Foster Wheeler, the list goes on and on. These companies go to Bermuda, Barbados, the Cayman Islands. These are great vacation spots, particularly for companies who want to live tax free.

Many of us have worked for years to end this practice only to be turned back again and again by the Republican leadership which has time and again given their approval to corporations who continue to avoid living up to their obligations as citizens. Two years ago, this House voted overwhelmingly, 318 to 110, to pass an amendment that I offered to the Homeland Security Act that would have prohibited corporate expatriates from receiving Federal contracts from the Department of Homeland Security. The other body followed suit; unanimously, I may add.

Even the President spoke out in favor of ending this practice. But in the dark of night, this Republican leadership gutted the amendment, a bipartisan amendment, defying the will of the President and both Chambers of the Congress. Now that contracting ban is, for all intents and purposes, meaningless.

What happens is we have a company that goes offshore, pays no taxes, takes jobs and technology with them, and then what they want to do is to be considered for millions and billions of dollars in taxpayer dollars from the Department of Energy, the Department of Defense, the Department of Homeland Security; that is what is happening, but they pay no taxes in the United States of America.

With this substitute we say, no more. At a time when we have brave men and women putting their lives on the line across the world, we will put patriotism before profit. And some of those companies that we are talking about are reaping the benefits today in Iraq while our young men and women are dying in Iraq. At a time when we have seen the greatest fiscal reversal in this country, a \$5.6 trillion surplus has become a \$3 trillion deficit, we are saying with this amendment that we have a moral obligation to pay our bills and not pass them on to our children and our children's children.

Mr. Speaker, I support this substitute. It is the right thing to do. It is the responsible thing to do. Support the Rangel substitute.

Mr. McCRERY. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to close the debate on our side for our substitute. My belief is these two tax provisions, modest as they are, regardless of the underlying bill, are good tax policy and ought to be considered if for no other reason than that they correct some serious inequities in our Tax Code which have been described by previous speakers.

We are very close to a compromise with our friends on the other side of the aisle. Our substitute would eliminate the health savings account issue. But as I said, it is possible to reinstate that in conference, and if the gentleman would like to support our substitute, we could do the patriotic thing, we could provide good tax policy, we could pay for a very good idea, and we could walk out, arm in arm, saying we have helped a few people, we have paid for it, and we have brought patriotism and corporate responsibility to some of our recalcitrant corporate friends who are not doing their share.

I would urge that this substitute does no harm to the underlying philosophy of the bill of the gentleman from Louisiana (Mr. McCRERY). It does add to the coffers of our Nation when it is so desperately needed. This money is contributed by those corporations whose actions are I believe indefensible, and

particularly at this time of grave national emergency.

I would not want to suggest that anybody who votes against our substitute is unpatriotic, but I would suggest that it certainly is helpful for our troops and the American economy to support the Rangel substitute.

Mr. Speaker, I yield back the balance of my time.

Mr. McCRERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I would relish the opportunity to walk out of the Chamber arm in arm with the gentleman from California (Mr. STARK) in complete agreement on a compromise on this legislation, I am afraid that the ill-advised tax changes contained in the gentleman's substitute would likely result in increased takeover of American corporations by foreign companies, so I will not be able to do that; but perhaps another day.

This substitute admits that the underlying policy in the bill under consideration is appropriate, that is allowing employees to roll over up to \$500 at the end of the year into next year's flexible spending arrangement. They do object to rolling money over into a health savings account, but the other part of the substitute which makes dramatic changes in tax policy in this country I think are indeed ill-advised, and I would urge this House to reject that.

I just want to go over a couple of things that have been mentioned by previous speakers, one of whom said we are now experiencing the largest deficit in the history of the country. Of course, he is speaking in nominal terms, not in real terms. In fact, the appropriate measurement of a deficit is against the national income; what percent of our national income is the deficit. And the deficit we are running now is not even close to the largest deficit in history measured in those terms.

□ 1445

He also said the economy is in the ditch, or something like that. No, the economy was in the ditch in 2000, but we have succeeded in dragging the economy out of the ditch thanks to the three tax cuts that another gentleman mentioned earlier. We now have a very vibrant, growing economy. We now see jobs being created at a remarkable clip for the last 2 months, so I would disagree with the gentleman's characterization of the economy being in the ditch. In fact, it is very much alive, and we hope it will continue that way.

The subject of American companies moving offshore is indeed a delicate one and one that we would like to address. In fact, we do address that unfortunate phenomenon in a bill that passed the Committee on Ways and Means back in 2002 and a different version was just passed yesterday by the Senate, and we will have another opportunity to address it here in the House. Since we introduced that bill

and passed it through the Committee on Ways and Means in 2002, there has not been a single company that has gone offshore. So the remedy that we prescribed for this deplorable action by some American companies we believe to be the correct remedy, the good tax policy remedy, and it is already working even though we have not even passed it. We just passed it through the Committee on Ways and Means. I would urge this House to reject the ill-advised course of action in the substitute and instead look forward to voting on a much more progressive treatment of that problem which will not encourage foreign takeover of American companies.

Mr. Speaker, while again I commend the minority on supporting the major provision of the underlying bill, I am afraid we must ask for a rejection of their substitute.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). All time for debate has expired. Pursuant to House Resolution 638, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from California (Mr. STARK).

The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. STARK).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. STARK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 230, not voting 6, as follows:

[Roll No. 161]

AYES—197

Abercrombie	Davis (AL)	Hinojosa
Ackerman	Davis (CA)	Hoeffel
Alexander	Davis (FL)	Holden
Allen	Davis (IL)	Holt
Andrews	Davis (TN)	Honda
Baca	DeFazio	Hooley (OR)
Baird	DeGette	Hoyer
Baldwin	Delahunt	Inslie
Ballance	DeLauro	Israel
Becerra	Deutsch	Jackson (IL)
Bell	Dicks	Jackson-Lee
Berkley	Dingell	(TX)
Berman	Doggett	Jefferson
Berry	Dooley (CA)	John
Bishop (GA)	Doyle	Johnson, E. B.
Bishop (NY)	Edwards	Jones (OH)
Blumenauer	Emanuel	Kaptur
Boswell	Engel	Kennedy (RI)
Boucher	Eshoo	Kildee
Boyd	Etheridge	Kilpatrick
Brady (PA)	Evans	Kind
Brown (OH)	Farr	Kleczka
Brown, Corrine	Fattah	Kucinich
Capps	Filner	Lampson
Capuano	Ford	Langevin
Cardin	Frank (MA)	Lantos
Cardoza	Frost	Larsen (WA)
Carson (IN)	Gephardt	Larson (CT)
Case	Gonzalez	Lee
Chandler	Gordon	Levin
Clay	Green (TX)	Lewis (GA)
Clyburn	Grijalva	Lipinski
Conyers	Gutierrez	Lofgren
Costello	Harman	Lowe
Cramer	Hastings (FL)	Lynch
Crowley	Hill	Majette
Cummings	Hinchey	Maloney

Markey	Pascarell	Snyder
Marshall	Pastor	Solis
Matsui	Payne	Spratt
McCarthy (MO)	Pelosi	Stark
McCarthy (NY)	Pomeroy	Stenholm
McCollum	Price (NC)	Strickland
McDermott	Rahall	Stupak
McGovern	Rangel	Tanner
McIntyre	Rodriguez	Tauscher
McNulty	Ross	Taylor (MS)
Meehan	Rothman	Thompson (CA)
Meek (FL)	Roybal-Allard	Thompson (MS)
Meeks (NY)	Ruppersberger	Tierney
Menendez	Rush	Towns
Michaud	Ryan (OH)	Turner (TX)
Millender-McDonald	Sabo	Udall (CO)
Miller (NC)	Sánchez, Linda T.	Udall (NM)
Miller, George	Sanchez, Loretta	Van Hollen
Moore	Sanders	Velázquez
Moran (VA)	Sandlin	Visclosky
Nadler	Schakowsky	Waters
Napolitano	Schiff	Watson
Neal (MA)	Scott (GA)	Watt
Oberstar	Scott (VA)	Waxman
Obey	Serrano	Weiner
Oliver	Sherman	Wexler
Ortiz	Skeltan	Woolsey
Owens	Slaughter	Wu
Pallone	Smith (WA)	Wynn

NOES—230

Aderholt	Ferguson	Matheson
Akin	Flake	McCotter
Bachus	Foley	McCrery
Baker	Forbes	McHugh
Ballenger	Fossella	McInnis
Barrett (SC)	Franks (AZ)	McKeon
Bartlett (MD)	Frelinghuysen	Mica
Barton (TX)	Gallegly	Miller (FL)
Bass	Garrett (NJ)	Miller (MI)
Beauprez	Gerlach	Miller, Gary
Bereuter	Gibbons	Mollohan
Biggert	Gilchrest	Moran (KS)
Billrakis	Gillmor	Murphy
Bishop (UT)	Gingrey	Murtha
Blackburn	Goode	Musgrave
Blunt	Goodlatte	Myrick
Boehlert	Goss	Nethercutt
Boehner	Granger	Neugebauer
Bonilla	Graves	Ney
Bonner	Green (WI)	Northup
Bono	Greenwood	Norwood
Boozman	Gutknecht	Nunes
Bradley (NH)	Hall	Nussle
Brady (TX)	Harris	Osborne
Brown (SC)	Hart	Ose
Brown-Waite,	Hastings (WA)	Otter
Ginny	Hayes	Oxley
Burgess	Hayworth	Paul
Burns	Hefley	Pearce
Burr	Hensarling	Pence
Burton (IN)	Herger	Peterson (MN)
Buyer	Hobson	Peterson (PA)
Calvert	Hoekstra	Petri
Champ	Hostettler	Pickering
Cannon	Houghton	Pitts
Cantor	Hulshof	Platts
Capito	Hunter	Pombo
Carson (OK)	Hyde	Porter
Carter	Isakson	Portman
Castle	Issa	Pryce (OH)
Chabot	Istook	Putnam
Chocola	Jenkins	Quinn
Coble	Johnson (CT)	Radanovich
Cole	Johnson (IL)	Ramstad
Collins	Johnson, Sam	Rehberg
Cooper	Jones (NC)	Renzi
Cox	Kanjorski	Reynolds
Crane	Keller	Rogers (AL)
Crenshaw	Kelly	Rogers (KY)
Cubin	Kennedy (MN)	Rogers (MI)
Culberson	King (IA)	Rohrabacher
Cunningham	King (NY)	Ros-Lehtinen
Davis, Jo Ann	Kingston	Royce
Davis, Tom	Kirk	Ryan (WI)
Deal (GA)	Kline	Ryun (KS)
DeLay	Knollenberg	Saxton
Diaz-Balart, L.	LaHood	Schrock
Diaz-Balart, M.	Latham	Sensenbrenner
Doolittle	LaTourette	Sessions
Dreier	Leach	Shadegg
Duncan	Lewis (CA)	Shaw
Dunn	Lewis (KY)	Shays
Ehlers	Linder	Sherwood
Emerson	LoBiondo	Shimkus
English	Lucas (KY)	Shuster
Everett	Lucas (OK)	Simpson
Feeney	Manzullo	Smith (MI)

Smith (NJ)	Thornberry	Weldon (FL)
Smith (TX)	Tiahrt	Weldon (PA)
Souder	Tiberi	Weller
Stearns	Toomey	Whitfield
Sullivan	Turner (OH)	Wicker
Sweeney	Upton	Wilson (NM)
Tancred	Vitter	Wilson (SC)
Taylor (NC)	Walden (OR)	Wolf
Terry	Walsh	Young (AK)
Thomas	Wamp	Young (FL)

NOT VOTING—6

DeMint	Regula	Simmons
Kolbe	Reyes	Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised there are 2 minutes remaining.

□ 1515

Messrs. WELLER, CARSON of Oklahoma, FEENEY, KINGSTON, and LUCAS of Kentucky changed their vote from “aye” to “no.”

Messrs. TANNER, PASTOR, and LARSON of Connecticut changed their vote from “no” to “aye.”

So the amendment in the nature of substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STARK

Mr. STARK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. QUINN). Is the gentleman opposed to the bill?

Mr. STARK. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Stark moves to recommit the bill H.R. 4279 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following new section:

SEC. 2. SOCIAL SECURITY AND MEDICARE TRUST FUNDS HELD HARMLESS.

Nothing in this Act shall be construed as affecting the amount of transfers to any trust fund established by title II or XVIII of the Social Security Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. STARK) is recognized for 5 minutes in support of his motion to recommit.

Mr. STARK. Mr. Speaker, during the past several hours we have had a good debate on this bill, and I think we have agreed to some of the basic principles that the flexible savings accounts should allow a reduction of the use-it-or-lose-it rule. We had attempted to offer a compromise to get our Republican colleagues to just pay for half of the bill, which was turned down. And the bill has, indeed, many supporters.

But what we have seen during the course of this current administration is indirectly a complete raid on the Social Security and Medicare Trust

Funds. Basically, the Republicans have spent all of the surplus in Social Security and Medicare, and that, in my opinion, is indefensible. Whether we agree about flexible savings accounts or medical savings accounts is not the issue. This bill directly, specifically, transfers out of the trust funds \$3.4 billion. The Republicans are raiding the Social Security and Medicare Trust Funds.

Now, that may not sound like a lot to my colleagues across the aisle, but to the people who depend on Social Security and Medicare, the idea that they are stealing money out of the Medicare and Social Security Trust Funds blatantly, I think they will find offensive.

This reduction in receipts should not be permitted to occur. It will not harm this bill. The bill will go forward exactly as the distinguished gentleman from Louisiana has outlined it and has prevailed. The only difference is our motion to recommit asks us all to stand up and take the pledge to protect Social Security and Medicare and its trust funds for all of those who depend on their benefits in this country.

This bill takes care of well-employed, well-insured individuals. This does not help any uninsured people at all. It gives an additional benefit to people with first-class medical insurance. Why then should we spoil an otherwise decent bill by taking the first step to destroy Medicare and Social Security for people who are unable to get health insurance? That is wrong.

We have all committed to protect Social Security and Medicare. You cannot oppose this motion to recommit and say you are protecting it. You are stealing almost \$3.5 billion over the next 10 years out of these trust funds.

To support our motion to recommit would merely say find it someplace else; take it out of general revenues, take it out of trade, take it out of anything, but do not take it out of the hard-earned benefits that our senior citizens are entitled to. This could be the first step toward destroying the financial viability of Medicare and Social Security.

If you vote for our motion to recommit, you are standing up and suggesting that you will protect the trust funds that underlie Social Security and Medicare. If you vote against it, you are saying, "We don't care. Take the seniors' money. What the heck. We can spend it. We have spent everybody else's money. We have spent our grandkids' money."

I ask you, out of compassion, those of us who are seniors might not be able to get a job anyplace else if I am not re-elected. My Social Security, please do not steal it. Do not make my little children go out and get an extra paper route to take care of me in my dotage. We need this. Our parents need it. We must protect our children.

So, to repeat, the bill will go through exactly as the Republicans have crafted it; but if you vote for our motion to recommit, you get the added benefit of

saying to every senior in your district, I stood up and protected your Social Security and Medicare benefits by protecting the trust funds to which this money would go.

Mr. Speaker, I urge support for the motion to recommit.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, I hope you all enjoyed that ride through very dark woods. Now let me explain what is really going on.

Return with me to 1945. We were in the middle of a war and a decision was made which affects us profoundly today. There was a choice of increasing wages or there was an idea that we can snooker workers not to ask for more wages if we create a procedure in which employers offer fringe benefits for which they will get a tax break.

Today, a dollar in wages competes against a dollar in fringe benefits. A dollar in wages is taxed 100 percent. A dollar in fringe benefits does not affect the worker or the employer. We created a system that puts a premium on going for fringe benefits over wages.

The argument the gentleman from California just made is based on that concept. He has a letter from Joint Tax that says if you create this fringe benefit, flexible spending accounts, in which up to \$500 of the employee's tax deferred structure is allowed to roll over in the employee-controlled structure as an incentive to keep down the fringe benefit costs, there is a possibility that these will be successful.

What happens if they are successful? The dollar in wages is not paid, the dollar in fringe benefits is paid, and the payroll tax, which otherwise would have gone into the Social Security Trust Fund from the wages foregone, is what he is talking about; not enough to modify the trust fund one iota over the year in terms of true impact on the Social Security Trust Fund.

It happens with every decision we make in here in choosing either wages or fringe benefits. This is worse than a red herring. What it does is commit you to say that any change that would save dollars in the larger picture, for example incorporating individuals' own decision-making in health care where they actually have an investment, rather than having \$5,000 worth of fringe benefits in which they are taking care of themselves, do not get any benefit out of it, and at the end of the year they go get eyeglass frames because they are trying to get money back out of the fringe benefits; the system we have constructed today, that if in fact this is successful and you save total money because somebody decides they want to make a prudent decision and a couple of hundred dollars roll over into the flexible savings account, Joint Tax has said that couple of hundred dollars that is in the flexible spending account may have been paid

out in wages, which means you then lose the payroll taxes in terms of the difference between the two.

The overall cost to the economy, the society, and the taxpayers is less. It is a minor accounting procedure which you can not even see. And that is the black wood he took you through to buy the concept that anytime you want to make an improvement in the overall structure of society, taxes and Social Security, you have taken the pledge not to have anything happen.

Do not take this pledge. Understand what they are trying to do to you. Reject this gimmick and simply say, look at the larger overall society benefit, and do not put on the green eyeshade and do not let them tell you that somehow this is going to impact the Social Security Trust Fund. In the long run, people helping make their own decisions saves money, it does not cost money.

Vote no on the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. STARK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes, if ordered, on passage of H.R. 4279 and adoption of H. Con. Res. 352.

The vote was taken by electronic device, and there were—ayes 202, noes 224, not voting 7, as follows:

[Roll No. 162]

AYES—202

Abercrombie	Costello	Grijalva
Ackerman	Cramer	Gutierrez
Alexander	Crowley	Harman
Allen	Cummings	Hastings (FL)
Andrews	Davis (AL)	Hill
Baca	Davis (CA)	Hinchee
Baird	Davis (FL)	Hinojosa
Baldwin	Davis (IL)	Hoefel
Ballance	Davis (TN)	Holden
Becerra	DeFazio	Holt
Bell	DeGette	Honda
Berkley	Delahunt	Hooley (OR)
Berman	DeLauro	Hoyer
Berry	Deutsch	Inslee
Bishop (GA)	Dicks	Israel
Bishop (NY)	Dingell	Jackson (IL)
Blumenauer	Doggett	Jackson-Lee
Boswell	Dooley (CA)	(TX)
Boucher	Doyle	Jefferson
Boyd	Edwards	John
Brady (PA)	Emanuel	Johnson, E. B.
Brown (OH)	Engel	Jones (OH)
Brown, Corrine	Eshoo	Kanjorski
Capps	Etheridge	Kaptur
Capuano	Evans	Kennedy (RI)
Cardin	Farr	Kildee
Cardoza	Fattah	Kilpatrick
Carson (IN)	Filner	Kind
Carson (OK)	Ford	Klecza
Case	Frank (MA)	Kucinich
Chandler	Frost	Lampson
Clay	Gephardt	Langevin
Clyburn	Gonzalez	Lantos
Conyers	Gordon	Larsen (WA)
Cooper	Green (TX)	Larson (CT)

Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-
McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha

Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Oliver
Ortiz
Pallone
Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano

Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wu
Wynn

NOES—224

Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggart
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Cavert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett

Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)

Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pommo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shaw
Shays

Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney

Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)

Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Aderholt
DeMint
Owens

Reyes
Scott (GA)
Tauzin

Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1547

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

□ 1545

The SPEAKER pro tempore (Mr. LATHAM). The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCCRERY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 273, nays 152, not voting 8, as follows:

[Roll No. 163]

YEAS—273

Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berkley
Biggart
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Bradley (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter

Case
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)

Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook

Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McKeon
Meeks (NY)
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)

Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pommo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions

NAYS—152

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gephardt
Green (TX)

Grijalva
Gutierrez
Hastings (FL)
Neal (MA)
Hinchey
Hoeffel
Holt
Hoyer
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Klecza
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lynch
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-
McDonald
Miller (NC)
Miller, George

Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Oliver
Ortiz
Owens
Pallone
Pascarell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Smith (WA)
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)

Van Hollen Watson Weiner
Velázquez Watt Woolsey
Waters Waxman

NOT VOTING—8

Aderholt Radanovich Tauzin
DeMint Reyes Wexler
Obey Scott (GA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1555

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING CONTRIBUTIONS OF PEOPLE OF INDIAN ORIGIN TO UNITED STATES AND BENEFITS OF WORKING TOGETHER WITH INDIA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 352.

The clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. BE-REUTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 352, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 2, answered “present” 2, not voting 14, as follows:

[Roll No. 164]

YEAS—415

Abercrombie Boyd Crenshaw
Ackerman Bradley (NH) Crowley
Aderholt Brady (PA) Culberson
Akin Brady (TX) Cummings
Alexander Brown (OH) Cunningham
Allen Brown (SC) Davis (AL)
Andrews Brown, Corrine Davis (CA)
Baca Brown-Waite, Davis (FL)
Bachus Ginny Davis (IL)
Baird Burgess Davis (TN)
Baker Burns Davis, Jo Ann
Baldwin Burr Davis, Tom
Ballance Burton (IN) Deal (GA)
Ballenger Calvert DeGette
Barrett (SC) Camp Delahunt
Bartlett (MD) Cannon DeLauro
Barton (TX) Cantor DeLay
Bass Capito Deutsch
Beauprez Capps Diaz-Balart, L.
Becerra Capuano Diaz-Balart, M.
Bell Cardin Dicks
Bereuter Cardoza Dingell
Berkley Carson (IN) Doggett
Berman Carson (OK) Dooley (CA)
Berry Carter Doolittle
Biggert Case Doyle
Bilirakis Castle Dreier
Bishop (GA) Chabot Dunn
Bishop (NY) Chandler Edwards
Bishop (UT) Chocola Ehlers
Blackburn Clay Emanuel
Blumenauer Clyburn Emerson
Blunt Coble Engel
Boehlert Cole English
Boehner Collins Eshoo
Bonilla Conyers Etheridge
Bonner Cooper Evans
Bono Costello Everett
Boozman Cox Farr
Boswell Cramer Fattah
Boucher Crane Ferguson

Filner Lee
Flake Levin
Foley Lewis (CA)
Forbes Lewis (GA)
Ford Lewis (KY)
Fossella Linder
Frank (MA) Lipinski
Franks (AZ) LoBiondo
Frelinghuysen Lofgren
Frost Lowey
Gallegly Lucas (KY)
Garrett (NJ) Lucas (OK)
Gephardt Lynch
Gerlach Majette
Gibbons Maloney
Gilchrest Manzullo
Gillmor Markey
Gingrey Marshall
Gonzalez Matheson
Goode Matsui
Goodlatte McCarthy (MO)
Gordon McCarthy (NY)
Goss McCollum
Granger McCotter
Graves McCrery
Green (TX) McDermott
Green (WI) McGovern
Greenwood McHugh
Grijalva McInnis
Gutierrez McIntyre
Gutknecht McKeon
Hall McNulty
Harman Meehan
Harris Meek (FL)
Hart Meeks (NY)
Hastings (FL) Menendez
Hastings (WA) Mica
Hayes Michaud
Hayworth Millender-
Hefley McDonald
Hensarling Miller (FL)
Herger Miller (MI)
Hill Miller (NC)
Hinchey Miller, Gary
Hinojosa Mollohan
Hobson Moore
Hoeffel Moran (KS)
Hoekstra Moran (VA)
Holden Murphy
Holt Murtha
Honda Musgrave
Hooley (OR) Myrick
Hostettler Nadler
Houghton Napolitano
Hoyer Neal (MA)
Hulshof Nethercutt
Hunter Neugebauer
Hyde Ney
Inslee Northup
Isakson Norwood
Israel Nunes
Issa Nussle
Jackson (IL) Oberstar
Jackson-Lee Obey
(TX) Olver
Jefferson Ortiz
Jenkins Osborne
John Ose
Johnson (CT) Otter
Johnson (IL) Owens
Johnson, E. B. Oxley
Jones (NC) Pallone
Jones (OH) Pascarell
Kanjorski Pastor
Kaptur Payne
Keller Pearce
Kelly Pelosi
Kennedy (MN) Pence
Kildee Peterson (MN)
Kilpatrick Peterson (PA)
Kind Petri
King (IA) Pickering
King (NY) Pitts
Kingston Platts
Kirk Pombo
Kleczka Pomeroy
Kline Porter
Knollenberg Portman
Kolbe Price (NC)
Kucinich Pryce (OH)
LaHood Putnam
Lampson Quinn
Langevin Radanovich
Lantos Rahall
Larsen (WA) Ramstad
Larson (CT) Regula
Latham Rehberg
LaTourette Renzi
Leach Reynolds

Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancred
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walsh
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Johnson, Sam Paul
ANSWERED “PRESENT”—2

DeFazio Sanders

NOT VOTING—14

Buyer Istook Roybal-Allard
Cubin Kennedy (RI) Scott (GA)
DeMint Miller, George Tauzin
Duncan Rangel Weller
Feeney Reyes

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1606

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCCRERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject matter of H.R. 4279.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 638, I call up the bill (H.R. 4280) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 4280 is as follows:

H.R. 4280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2004”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting

interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) **EFFECT ON FEDERAL SPENDING.**—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) **PURPOSE.**—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of “defensive medicine” and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following—

(1) upon proof of fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 4. COMPENSATING PATIENT INJURY.

(a) **UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.**—In any health care lawsuit, nothing in this Act shall limit a claimant's recovery

of the full amount of the available economic damages, notwithstanding the limitation in subsection (b).

(b) **ADDITIONAL NONECONOMIC DAMAGES.**—In any health care lawsuit, the amount of noneconomic damages, if available, may be as much as \$250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury.

(c) **NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.**—For purposes of applying the limitation in subsection (b), future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of \$250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed \$250,000, the future noneconomic damages shall be reduced first.

(d) **FAIR SHARE RULE.**—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. Whenever a judgment of liability is rendered as to any party, a separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) **COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.**—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first \$50,000 recovered by the claimant(s).

(2) 33½ percent of the next \$50,000 recovered by the claimant(s).

(3) 25 percent of the next \$500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of \$600,000.

(b) **APPLICABILITY.**—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section. The requirement for court supervision in the first two sentences of subsection (a) applies only in civil actions.

SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit involving injury or wrongful death, any party may introduce evidence of collateral source benefits. If a

party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit involving injury or wrongful death. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

SEC. 7. PUNITIVE DAMAGES.

(a) **IN GENERAL.**—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) **DETERMINING AMOUNT OF PUNITIVE DAMAGES.**—

(1) **FACTORS CONSIDERED.**—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following—

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) **MAXIMUM AWARD.**—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as \$250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) **NO PUNITIVE DAMAGES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.**—

(1) IN GENERAL.—

(A) No punitive damages may be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, based on a claim that such product caused the claimant's harm where—

(i) (I) such medical product was subject to premarket approval, clearance, or licensure by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(II) such medical product was so approved, cleared, or licensed; or

(ii) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling, unless the Food and Drug Administration has determined that such medical product was not manufactured or distributed in substantial compliance with applicable Food and Drug Administration statutes and regulations.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as establishing the obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes, or who dispenses pursuant to a prescription, a medical product approved, licensed, or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product. Nothing in this paragraph prevents a court from consolidating cases involving health care providers and cases involving products liability claims against the manufacturer, distributor, or product seller of such medical product.

(3) PACKAGING.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval, clearance, or licensure of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval, clearance, or licensure of such medical product.

SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding \$50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments. In any health care lawsuit, the court may be guided by the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions that have not been first set for trial or retrial before the effective date of this Act.

SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term “alternative dispute resolution system” or “ADR” means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term “claimant” means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term “collateral source benefits” means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term “compensatory damages” means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term “compensatory damages” includes economic damages and non-economic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term “contingent fee” includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term “economic damages” means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term “health care lawsuit” means any health care liability claim concerning the provision of health care goods or services or any medical product affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services or any medical product affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim. Such term does not include a claim or action which is based on criminal liability; which seeks civil fines or penalties paid to Federal, State, or local government; or which is grounded in anti-trust.

(8) HEALTH CARE LIABILITY ACTION.—The term “health care liability action” means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term “health care liability claim” means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term “health care organization” means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term “health care provider” means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term “health care goods or services” means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a

health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment or care of the health of human beings.

(13) **MALICIOUS INTENT TO INJURE.**—The term “malicious intent to injure” means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) **MEDICAL PRODUCT.**—The term “medical product” means a drug, device, or biological product intended for humans, and the terms “drug”, “device”, and “biological product” have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321) and section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)), respectively, including any component or raw material used therein, but excluding health care services.

(15) **NONECONOMIC DAMAGES.**—The term “noneconomic damages” means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) **PUNITIVE DAMAGES.**—The term “punitive damages” means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) **RECOVERY.**—The term “recovery” means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys’ office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) **OTHER FEDERAL LAW.**—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES’ RIGHTS.

(a) **HEALTH CARE LAWSUITS.**—The provisions governing health care lawsuits set forth in this Act preempt, subject to sub-

sections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) **PROTECTION OF STATES’ RIGHTS AND OTHER LAWS.**—(1) Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law.

(2) This Act shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provided by this Act or create a cause of action.

(c) **STATE FLEXIBILITY.**—No provision of this Act shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 12. APPLICABILITY; EFFECTIVE DATE.

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

SEC. 13. SENSE OF CONGRESS.

It is the sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

The SPEAKER pro tempore. Pursuant to House Resolution 638, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes; and the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4280, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the national medical insurance crisis, driven by unlimited lawsuits, is devastating our Nation’s health care system to the detriment of patients everywhere. Medical professional liability insurance rates have soared, causing major insurers to either drop coverage or raise premiums to unaffordable levels. Doctors are being forced to abandon patients and practices or to retire early, particularly in high-risk specialties, such as emergency medicine, brain surgery, and obstetrics and gynecology. Women are particularly hard hit, as are low-income and rural neighborhoods.

H.R. 4280, the HEALTH Act, is modeled after California’s highly successful health care litigation reforms enacted in 1975 and known under the acronym MICRA. California’s reforms, which are included in the HEALTH Act, include reasonable limits on unquantifiable damages, limits on the contingency fees lawyers can charge, and authorization for defendants to introduce evidence to prevent double recoveries. The HEALTH Act also includes provisions creating a fair share rule, by which damages are allocated fairly in direct proportion to fault; reasonable guidelines on the award of punitive damages; and a safe harbor from punitive damages for products that meet applicable FDA safety requirements.

Information provided by the National Association of Insurance Commissioners shows that since 1975, premiums paid outside of California increased at five times the rate they increased in California. The Congressional Budget Office has concluded “under the HEALTH Act, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 35 percent below what they would be under current law.” If California’s legal reforms were implemented nationwide, we could spend billions of dollars more annually on patient care, meaning helping sick people get better.

We all recognize that injured victims should be adequately compensated for their injuries, but too often in this debate we lose sight of the larger health care picture. This country is blessed with the finest health care technology in the world. It is blessed with the finest doctors in the world. People are smuggled into this country for a chance at life and healing, the best chance that they have in the world. The Department of Health and Human Services issued a report recently that includes the following amazing statistics: during the past half century, death rates among children and adults up to age 24 were cut in half, and the infant mortality rate plummeted 75 percent. Mortality among adults between the ages of 25 and 64 fell nearly as much, and dropped among those 65 years and older by a third. In 2000, Americans enjoyed the longest life expectancy in our history, almost 77 years.

These amazing statistics just did not happen. There are faces behind the statistics, and they are our doctors. These statistics happen because America produces the best health care technology and the best doctors to use it. But now there are fewer and fewer doctors to use that miraculous technology or to use that technology where their patients are. We have the best brain scanning and best brain operation devices in history and fewer and fewer neurosurgeons to use them.

Unlimited lawsuits are driving doctors out of the healing profession. They are making us all less safe, all in the name of unlimited lawsuits and the personal injury lawyers' lust for their cut of unlimited awards for unquantifiable damages. But when someone gets sick or is bringing a child into the world, and we cannot call the doctor, who will we call? When you pick up the phone and call the hospital because someone you love has suffered a brain injury, and you are told, sorry, lawsuits made it too expensive for brain surgeons to practice here, who will save your loved one? You cannot call a lawyer. A lawyer cannot perform brain surgery.

We all need doctors. And we, as our Nation's representatives, have to choose, right here and today. Do we want the abstract ability to sue a doctor for unlimited, unquantifiable jackpot damage awards when doing so means that there will be no doctors to treat ourselves and our loved ones in the first place? Of course not. So on behalf of all 287 million Americans, all of whom are patients, let us pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

My colleagues, it is slightly incredible that with all the pressing legislative challenges facing us today, we have nothing better to do than re-debate and revote the same tired medical malpractice proposals that have been brought forward by a conservative Congress over the last decade. This is the fifth time in 14 months that we have had this bill before the House of Representatives. Sooner or later somebody is going to get it, that this bill is not likely ever to go anywhere because it insults the commonsense health care needs of the American people.

Now, how can you put so many bad things in one bill? Let me explain how devious this thing can get. The bill before us would first supersede the law in every State in the Union, and these are states-righters over here, to cap non-economic damages, to cap punitive damages, to cap attorneys' fees for those lawyers that would represent the poor, to reduce the statute of limitations, to eliminate joint and several liability and eliminate the collateral source rule. All in one bill. Six incredible things.

Embarrassed? No, I do not think they are. Rather than helping, when this Nation faces a national health care sys-

tem crisis of growing proportions, instead of helping Americans that seek health care remedies and remedies for bad medical practice, and to help the medical profession itself, the bill before us does none of that; but it does enrich the insurance companies of America, the HMOs of this country, and the manufacturers and distributors of medical products, which sometimes are defective, as well as the pharmaceuticals that might be involved, too.

In other words, all the bad, unpleasant negative parts of our health care system are being protected. And who do we do it at the expense of? The innocent victims of medical malpractice, particularly women and children and the elderly poor.

I am embarrassed that this measure is on the floor for the sixth time in 14 months.

It's amazing to me that with all of the pressing problems facing us today, the Majority has nothing better to do than re-debate and revote the same tired old medical malpractice proposals they have been pushing for the last ten years. In fact, this is the fifth time the Congress has voted on this bill in the past 14 months.

The bill before us today would supersede the law in all 50 states to cap non-economic damages, cap and limit punitive damages, cap attorney's fees for poor victims, shorten the statute of limitations, eliminate joint and several liability, and eliminate collateral source.

Rather than helping doctors and victims, the bill before us pads the pockets of insurance companies, HMOs, and the manufacturers and distributors of defective medical products and pharmaceuticals. And it does so at the expense of innocent victims, particularly women, children, the elderly and the poor.

We need to cut the charades and get to the heart of the problem. The insurance industry is a good place to start. We have seen in the past that the insurance industry goes through boom and bust cycles, with premiums ebbing and flowing as companies enter and exit the market and investment income rises and falls. We also know from past experience that the insurance industry—which is exempt from the antitrust laws—is not immune from collusion, price fixing and other anticompetitive problems.

It is also clear that the legislative solution largely focused on limiting victims rights available under our state tort system will do little other than increase the incidence of medical malpractice—already the third leading cause of preventable death in our nation. In other words, by limiting liability, we will increase incentives for misconduct.

Under this proposal, Congress would be saying to the American people that we don't care if you lose your ability to bear children, we don't care if you are forced to live in excruciating pain for the remainder of your life, and we don't care if you are permanently disfigured or crippled. The majority in this bill would limit recovery in tens of thousands of these cases, regardless of their merits.

The proposed new statute of limitations takes absolutely no account of the fact that many injuries caused by malpractice or faulty drugs take years or even decades to manifest themselves. Under the proposal, a patient who is negligently inflicted with HIV-infected blood

and develops AIDS six years later would be forever barred from filing a liability claim.

The so-called periodic payment provisions are nothing less than a federal installment plan for HMO's. The bill would allow insurance companies teetering on the verge of bankruptcy to delay and then completely avoid future financial obligations. And they would have no obligation to pay interest on amounts they owe their victims.

And guess who else gets a sweetheart deal under this legislation? The drug companies. The producers of killer devices like the Dalkon Shield, the Cooper-7 IUD, high absorbency tampons linked to toxic shock syndrome, and silicone gel implants all would have completely avoided billions of dollars in damages had this bill been law.

Nearly 100,000 people die in this country each and every year from medical malpractice. At a time when 5 percent of the health care professionals cause 54 percent of all medical malpractice injuries, the last thing we need to do is exacerbate this problem while ignoring the true causes of the medical malpractice crisis in America. I urge my colleagues to reject this anti-patient, anti-victim legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1615

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say before I give my prepared statement that I too am embarrassed that this issue is on the floor for the sixth time in so many months because the other body is yet to do anything about it. It is past time that we should have passed this and the other body should have passed it, and we should have all attended a signing ceremony with the President of the United States so we can bring some medical malpractice reform to the health care providers of our country.

We are facing a crisis in this country, and I do not use that term lightly, that dramatically affects our efforts to improve access to high-quality, affordable health care. Doctors in at least 19 States are facing astronomical increases in their medical malpractice insurance premiums. They have had their premiums doubled, and in some cases tripled. A hostile liability environment has forced doctors to stop performing certain procedures. In my own congressional district, I know of doctors who have retired because they cannot afford the medical malpractice insurance to continue their practices.

This means as there are fewer doctors to provide health care, patients are going to be left with fewer treatment options. Fewer OB-GYNs means less preventive health care for women. It means less regular screenings for reproductive cancers, high blood pressure, infections and other health risks, and less preventive care means higher health care costs down the road.

As insurance premiums continue to skyrocket, doctors will look to cut back on or eliminate care for higher-risk patients such as the uninsured.

This will also affect how we recruit new doctors. Our country already has a difficult time providing access to high-quality health care in many underserved areas. We already lack a true health care marketplace where patients can shop freely for health care services and have a direct say about which doctor they will see. We do not need to make these problems worse, we need to fix them.

The bill before us would begin the effort to fix them. The medical liability crisis is driving doctors out of the practice of medicine. Even if you have health insurance, what is it worth if there is no doctor available to treat you? It is not right that our courts have become a legal lotto system rather than a fair system that judges meritorious claims.

We all agree if a patient is injured through malpractice or negligence, that patient should be compensated fairly for his injuries; but that is not happening today. Injured patients have to wait on average 5 years before a medical injury case is complete. Adding insult to injury, patients lose on average almost 60 percent of their compensation to attorneys and the courts.

Even though 60 percent of medical malpractice claims against doctors are dropped or dismissed, we all pay the price. According to HHS, the direct cost of malpractice insurance and the indirect cost from defensive medicine raises the Federal Government's health care share of the cost by at least \$28 billion a year.

H.R. 4280 will help all Americans. It speeds recovery for injured patients who truly deserve compensation. It removes the perverse incentives in our current medical liability system that force doctors to look at patients as potential lawsuits. It will encourage employers to increase the scope of their health insurance benefits, and it will allow for greater investment in life-saving technologies which help make America's health care system the best in the world.

This legislation encompasses the best policy that can actually fix the medical malpractice crisis. It is high time for this legislation to become law.

Again, I share the concerns of the gentleman from Michigan (Mr. CONYERS) that we have had to vote on this a number of times on the House floor. The problem is not that the House is continuing to vote on it, the problem is that the other body will not bring it up for a vote. I hope that we can pass it today and get the other body to bring it up and we can go to a signing ceremony with the President of the United States.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Virginia (Mr. SCOTT) from the Committee on the Judiciary, and that he may control that time.

The SPEAKER pro tempore (Mr. SWEENEY). Is there objection to the request of the gentleman from Michigan? There was no objection.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I appreciate the comments of the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce, who explains to us why this keeps coming up, and he refers charitably to the other body.

The other body for the last 10 years has been controlled by the gentleman's party. The last 10 years. The present head of the Senate is not only a Member of the gentleman's party, but he is a medical doctor.

I ask the gentleman, what could he and I do together to help the other body get the message here?

Mr. BARTON of Texas. Mr. Speaker, how much time remains for each side?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 15 minutes remaining, the gentleman from Virginia (Mr. SCOTT) has 16 minutes remaining; the gentleman from Texas (Mr. BARTON) has 6 minutes remaining, and the gentleman from Ohio (Mr. BROWN) has 10 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS) to engage in a colloquy.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I share the frustration that the gentleman has with the other body. If we could work together to get Members from the other body on both sides of the aisle to vote for cloture, and as the gentleman well knows, regardless of who controls the other body, it takes 60 votes to agree to limit debate, and a fair number of Members of the gentleman's party in the other body have failed to vote for cloture on this issue. I would be happy to work with the gentleman to work for cloture to bring the bill up.

Mr. CONYERS. I would be interested; and is the gentleman interested in the six points that I just raised that make this bill problematic? We cannot work together on two different bills.

Mr. BARTON of Texas. Mr. Speaker, if the gentleman would continue to yield, if we can at least let some bill come up for a vote, we can solve this in conference. The policy difference can be worked out in conference, but unless there is a conference with the other body, there is not going to be anything to work out.

Mr. CONYERS. Mr. Speaker, it is my experience in conferences the lights

frequently go out and measures get substituted and all kinds of weird things go on. Let us do this in broad daylight, with everybody looking and listening. Conferences have not been the way the democratic process has been enhanced in my career in Congress, sir.

Mr. BARTON of Texas. Mr. Speaker, if the gentleman would continue to yield, the conference mechanism may not be as perfect as it should be, but it is a mechanism where policy differences can be worked on.

Mr. CONYERS. Mr. Speaker, could I recommend that the gentleman and I and my chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), perhaps we can enter into an informal colloquy with some of the leaders in the other body and see if we can end this constant repetition of what is going on here in the House today.

Mr. BARTON of Texas. Mr. Speaker, I am interested in doing that.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to confine their remarks to factual references to the other body and avoid characterizations of Senate action or inaction, remarks urging Senate action or inaction, or references to particular Senators.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I share the consternation of the gentleman from Michigan (Mr. CONYERS). In this country we are facing problems in Iraq, yet this House does nothing. We are listening to seniors say please fix the Medicare discount card program bill; this House does nothing. We are hearing from people in my State of Ohio that we have lost 200 jobs every day in the Bush administration; we are doing nothing about that. We will not extend unemployment benefits or anything else. We are hearing people talk about drug prices being one-half and one-third in Canada what they are here; we are not doing anything about that. We have lost so much manufacturing in this country, 1 out of 7 manufacturing jobs has simply disappeared since George Bush took office.

Yet for the fifth time in 14 months, as the gentleman from Michigan said, we are debating a medical malpractice bill that does not do anything about medical malpractice. I support malpractice reform, as most Members of this body do, but I oppose this bill.

The Republicans lay the blame for rising medical malpractice premiums on the victims of medical malpractice. The bill does not have one provision acknowledging the insurance industry's accountability for skyrocketing premiums, not one provision to keep the insurance industry accountable.

Insurers have tripled their investment in the stock market over the past 10 years, now they are trying to recoup their losses from doctors and premiums from hospitals and other medical providers, and from patients. Insurers low-

balled their rates to attract new customers, and then they went overboard and depleted their reserves. That is not our fault, that is not the patients' fault or doctors' fault. Rates have to exceed costs to stabilize those reserves, and the recklessness on the part of insurers is clearly a factor in the recent rate spikes.

Democrats have repeatedly tried to negotiate with the Republican majority on this issue. We asked the majority to consider insurance reforms; they absolutely refused even to talk about it. We asked the majority to subpoena insurance company records so we really could understand and get to the bottom of the rate spikes and so we could be sure we were solving the real problems; the Republicans refused to even talk about it.

There were avenues we could take to stabilize medical malpractice premiums: reinsurance pools, rate bands, loss ratio requirements, reserve requirements, and improved transparency, but the insurance industry opposes these changes. The insurance industry gives a lot of money to President Bush and the Republican leadership, so the Republican leadership does not even consider these insurance company issues. This bill assumes the insurance industry's business decisions play no role in setting premiums. It is always the patient's fault.

In the Committee on Energy and Commerce and in the Subcommittee on Health, I had an amendment that said whatever money we save from the caps has to go towards lower premiums for doctors and hospitals. Because the insurance industry gives a lot of money to Republicans, it was voted down on behalf of the insurance industry on a party-line vote.

This bill is doomed to fail, even if it would become law, and the proof is in California. California has had damage caps since the 1970s. It now has the most stringent caps in the country; but caps alone did nothing. They were a colossal failure in California. Premiums for medical malpractice were higher than the national average. They were growing faster than the national average.

□ 1630

Eventually, California recognized its mistake and implemented a set of malpractice insurance reforms. Since then, premiums have moderated. But this bill does not emulate California's successes. It only imitates California's mistakes.

It is bad enough the bill ignores the failure of a cap-only approach. It takes another swipe at patients with a cap system that says the same injury causes more harm in dollar terms if it happens to a CEO than it does if it happens to his gardener. Like its predecessor, this bill contains provisions wholly unrelated to the medical malpractice issue. It says HMOs that deny patients needed medical care cannot be held accountable, yet HMOs continue

to post robust profits, earning \$6 billion in the first 9 months of 2003, a 52 percent increase over last year.

This bill says drug companies who sell medicine with toxic side effects are not responsible. Yet they are protecting the drug industry which has been the most profitable industry in America for 20 years running. And the bill says manufacturers of defective medical equipment get a free pass. They are doing all right, too.

In this bill, businesses are never at fault, patients are greedy, the U.S. Congress knows better than a jury of your peers in your community, and State laws are just cast aside without a second thought. If my friends in this body really wanted malpractice reform, if they really wanted to help doctors deal with these outrageous premiums they are paying, they would not use this bill to help their drug company contributors, they would not use this bill to help their insurance company contributors, they would not use this bill to help their HMO contributors. That is what this bill is all about.

At a time when the public is calling for greater corporate accountability, this bill turns on the public itself and says injured patients, not the system that is designed to protect them, are at fault. This is not reform. It is callous injustice.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, America's health care system is facing a malpractice abuse crisis. This single issue has driven up costs, it has increased the number of uninsured, and it has forced health providers out of our rural areas. Doctors are facing mounting costs. The sky-high non-economic damage awards, which end up lining the pockets of the powerful trial lawyer lobby, are responsible for many of the elements that are plaguing this system.

Most of our medical liability claims, up to 70 percent, do not result in any payments to the patients. The lawyers' fees account for 40 percent or more of these multimillion-dollar payouts. The effect is clear. The lawsuits and the trial lawyers force this situation with enormous insurance rates. They then charge you and me and businesses across the country higher prices.

Employers can attest to what the high cost of health care is doing to them. They hurt when they cannot afford to offer coverage to their workers. Our rural communities understand this issue. The family doctor who grew up with them there in the town is disappearing. They are being squeezed out by this vicious cycle. This should be an easy vote. It is common sense, and it is going to help save rural health care and save lives.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that the gen-

tleman from Pennsylvania (Mr. GREENWOOD) control the balance of my time.

The SPEAKER pro tempore (Mr. SWEENEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Speaker, once again Republicans are attempting to pass ineffective anticonsumer legislation that caps medical malpractice awards at \$250,000. The habitual Republican response to the malpractice crisis, punish the victims. This bill fails to reduce medical malpractice costs. In States that recently capped medical malpractice awards, the rates have not gone down as promised. In Florida, which capped rates last year, one insurer requested an inconceivable 45 percent increase in rates.

Mr. Speaker, why not look at the root cause of this health care emergency and adopt desperately needed insurance reform? I urge my colleagues to vote against this shortsighted measure and support real insurance reform which protects victims and provides relief to doctors and health care providers.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. COX), the coauthor of this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. COX).

The SPEAKER pro tempore. The gentleman from California (Mr. COX) is recognized for 2 minutes.

Mr. COX. Mr. Speaker, this is Cover the Uninsured Week, organized by patients, physicians and hospitals to promote access to care to all Americans. They are calling on Congress to act. We are here to answer that call. We are here today because patients are losing. They are losing their access to care. Many have already lost it. The General Accounting Office has confirmed it. In at least 10 percent of these United States, sky-high medical liability costs are preventing patients from getting emergency surgery. They are preventing expectant mothers from having access to doctors to deliver their babies.

It has been 10 years since I first wrote this legislation that is now the Greenwood-Cox bill before us today. In that time, the number of medical lawsuits has risen 25 percent. The median damage award for medical lawsuits against hospitals, physicians and nurses right now is rising 43 percent per year. In some States, liability insurance premiums are rising 100 percent or more for so-called high-risk specialties, high risk because of the lawsuits, not because of the medical procedures involved, such as general surgery, 130 percent; internal medicine 130 percent; and obstetrics, OB-GYN, 165 percent. The money for these lawsuits comes directly from our health care system. Doctors and hospitals now

spend more on liability insurance than they do on medical equipment.

The bill before the House today will ensure that patients have access to the medical care that they need. It is based on our law in California where I come from that was enacted by a Democratic legislature and signed by a Democratic Governor, and it works.

In our State since these reforms have taken place, California's health liability insurance premiums in constant dollars have fallen by 40 percent. This while we are having crises in other States. Injured patients in California receive more compensation and receive it more quickly than in the United States as a whole. They receive a greater share of the recoveries in these lawsuits. California does not suffer from the flight of doctors or the closure of emergency rooms because we have the reforms in this bill. This bill balances the interests of billionaire lawyers and middle-class patients. It is time that patients have access to the care that they need.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I rise today in opposition to not only this bill but the package of bills. In all honesty, in this bill people do not get sued for malpractice in Federal court typically. It is in State court. Like the State of California, the States can deal with that issue.

I rise in opposition to these bills simply because we have more important pressing needs of our health care system, the fact that 44 million Americans are without health insurance. This week is National Cover the Uninsured Week; and coming from the great State of Texas, I find it alarming that over 30 percent of Texans are without health insurance.

My hometown, Houston, is the home of the world-class Texas Medical Center. Yet without health insurance, too many Texans do not have access to lifesaving medical research and treatments performed at the medical center. Tackling this country's health care problems does not call for the unsuccessful piecemeal approach that we are considering this week. Passing these three bills would just be like rearranging the deck chairs on the Titanic. Our focus needs to be on providing all Americans with health insurance so that they will get the preventive care needed to keep them healthy and out of the emergency rooms. That is the way to keep health care costs down.

Unfortunately, policies enacted by this Congress and the States have taken health care in the wrong direction. Our fiscal policies have starved the States of crucial health care funding. State cuts in the CHIP program in Texas have dropped almost 170,000 children, and there is no way to ensure that our children get health care. To get our country's health care system out of this ditch, we have to stop digging. Let us give our children a

healthy start and re-enroll them in CHIP. Let us also make sure that their parents can have access to the same care. In other words, pass legislation here to create a CHIP for parents. In my home State of Texas, that policy option alone would provide 67 percent of these parents with health insurance.

The uninsured in this country too often fall through the cracks of our health care system. For the health of our Nation, we must provide Americans with health insurance, not last year's ideas that these bills give them.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. I thank the gentleman for yielding me this time.

Mr. Speaker, not too long ago I got on an airplane ride. Across the aisle from me was a young woman holding her 7- or 8-month-old daughter. This young woman was also an OB-GYN. She began to talk to me about the practice that she has invested in had a 600 percent increase in the premiums in one single year. That is the worst I have heard of, but there are many out there that run 200, 300, 400 percent increases in premiums.

I represent a part of the State of Iowa. Iowa is last in the Nation in Medicare reimbursement rates. Now we are seeing an increase in medical malpractice premiums. Good things do come out of California. This is a good idea. It is a good model, and it is a good pattern. I am happy to follow the lead of the gentleman from California (Mr. COX) on this issue. We are losing access to health care in Iowa because of the cost of premiums, because Medicare reimbursement rates are the last in the Nation. Our issue is access to health care. We must reform this practice. Three percent of the gross domestic product of the United States of America is being consumed by litigation. Here is a place to start. I would like to do very much more.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, this bill does nothing to improve the system. It does nothing to deal with the insurance rates and the increases in premiums, but it does deny victims compensation when they are victims of malpractice. I think it may be helpful to go a little section by section to see what is actually in the bill to see how it actually does what some of the people are talking about.

Section 3, for example, is entitled "Encouraging Speedy Resolution of Claims." Mr. Speaker, injured parties do not need encouragement to get a speedy resolution of the claim. This section only invalidates bona fide claims that are filed after a set deadline. It also creates a confusing matrix because some State deadlines are preempted. Others are not. And so you have that confusing matrix of deadlines and may even miss the deadline by mistake.

Section 4 is called "Compensating Patient Injury." Actually, that is the

section which limits compensation to innocent victims. It also has what is called the "fair share rule." I think most States, but at least Virginia and many States, allow a victim to collect all of the damages from one defendant. That defendant can then seek contribution from others involved. In practice, that contribution is worked out in advance by who pays for what insurance.

This so-called fair share requires the victim not only to prove a separate case against each and every defendant who may be involved but it also requires the plaintiff to decide and prove what percentage each one owes. Often the plaintiff does not know what happened. All they know is they are a victim of malpractice. This provision will require the plaintiff to have a separate case and pay for the expenses of separate cases against each and every person. Otherwise they may be afflicted with the "empty chair defense" where everybody in the courtroom starts pointing to an empty chair and says somebody else had 10 percent or 20 percent.

Section 5 is "Maximizing Patient Recovery." Actually, that is a provision that limits attorneys' fees making it likely that a plaintiff will not even be able to hire a lawyer. You do not hear any victims groups clamoring for limitation on attorneys' fees. The defendants are not affected by the plaintiff attorneys' fees. They do not pay the plaintiff attorneys' fees. If the award is \$100,000 and the plaintiff's attorney charges 50 percent, the defendant pays \$100,000. If the lawyer charges 25 percent, still \$100,000. If the lawyer does not charge anything at all, just the same, \$100,000. The only way that this will help malpractice premiums is if the plaintiff cannot bring the bona fide case at all, cannot bring the case because they cannot hire a lawyer with the fees. That is not fair. It is even more likely when you have this fair share thing where the lawyer has to have five and six cases in the same case.

There is another provision called "Additional Health Benefits." That is a provision that says if the victim has health insurance, the benefit of that health insurance goes to the one who committed the malpractice. In Virginia and many other States, if you have health insurance, you benefit. In other States, the health insurance company can get its money back after the case is settled because the malpractice recovery will pay the health expenses. Presumably under that case, the premiums will be lower. But in this bill, the benefit goes to the one who committed the malpractice. This bill is so bizarre that if you are working for a self-insured employer who is obligated to pay the health expenses of an employee and that employee is a victim of malpractice and runs up a \$50,000 hospital bill, the business has to pay that \$50,000 bill even though the one committing the malpractice is fully insured and could have paid. I cannot

wait for some small businesses to come to us and ask why they had to pay the bill as a result of malpractice.

Mr. Speaker, there is another provision under "Punitive Damages." This bill provides that if a jury finds by the preponderance of the evidence that the doctor acted with malicious intent to intentionally injure a patient, not just recklessly negligent, acted with malicious intent to injure, that is not enough under the bill, because the evidence does not have to be just by the preponderance of the evidence; it has to be by clear and convincing evidence.

Mr. Speaker, this bill will not help injured victims of malpractice, and it is unlikely to reduce premiums. A chart of States in order of the costs of malpractice premiums shows some States at the top with caps, some with caps at the bottom, some with caps in the middle. There is no pattern to the chart. They are all over the place. The caps apparently did not make any difference at all.

We have heard a lot about the doctor shortage. This is not limited to doctors. This tort reform bill affects the health care provider, a health care organization, an HMO, manufacturer, distributor, supplier, marketer, promoter, a seller of a medical product regardless of the theory of liability on which the claim is based. This does not help victims. It probably will not even reduce premiums.

Mr. Speaker, I would hope that we would defeat the bill so that it will not be enacted. That has been the judgment of the United States Congress for the last 14 months. I hope it is still the judgment of the United States Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. GREENWOOD. Mr. Speaker, I yield myself 2 minutes.

This bill is on the floor for one reason and one reason alone. That reason is that across this country there is a crisis. The crisis is that the cost of medical malpractice insurance is so expensive that trauma centers have to close, that obstetricians cannot deliver babies anymore, that neurosurgeons cannot preserve lives, that orthopedic surgeons cannot do what they are supposed to do. It is a crisis. It also so happens that if this bill is passed, it will, according to the CBO, reduce the cost of medical malpractice insurance by 25 percent which will go a long way to solving that crisis.

It also has some side benefits. By making the cost of medical malpractice insurance less expensive, it makes the cost of health care less expensive which means that more employers can offer more of their employees insurance.

□ 1645

In fact, according to the CBO, 3.9 million Americans who do not have health care today would get health care just because we passed this bill. We ought to do it. Another side benefit, accord-

ing to the CBO, is that because these costs are built into the costs of Medicaid and Medicare, we would save \$15 million in those programs over the next 10 years, which we could apply to real important health care needs.

The gentleman from Michigan (Mr. CONYERS) has said we are passing this bill on the floor, it is never going to pass in the Senate. This bill went to the Senate and Majority Leader FRIST made a motion to consider the bill, and the Democrats objected to the consideration of the bill, to even having the debate. And then when it came time to vote on whether to have that debate, the Democrats voted no, we do not want to even debate this bill. So one can debate the fine points. One can say I have a better way to solve this problem or another Senator can say I do not like the cap here or I do not like this aspect of it. The most deliberative body on the face of the Earth is supposed to come to the floor of the Senate with their ideas, with their amendments, and engage in a debate. Instead, all that they have done is obstruct.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY). The Chair will once again remind Members to confine their remarks to factual references to the other body and avoid characterizations of Senate action or inaction, remarks urging Senate action or inaction, or references to particular Senators.

Mr. BROWN of Ohio. Mr. Speaker, I yield the balance of my time to the gentlewoman from Colorado (Ms. DEGETTE).

Mr. SCOTT of Virginia. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, every so often in this body, I think it is important to talk about facts. Instead of legislating by an anecdote, I would like to actually look at some facts today.

Those on the other side would have us believe that limiting patients' access to the courts will relieve high malpractice insurance premiums. But the fact is there has been no increase in the rate of malpractice claims filed in recent years, and the fact is the average payout has remained steady for a decade. The fact is that California, the State that has been most successful in curbing malpractice costs, only did so after passing a voter initiative that also reformed the insurance system.

Despite this evidence, proponents of this bill continue to represent it as relief for physicians. In reality, it is a bald effort by the insurance industry to pass off their costs on already suffering patients. This bill will disproportionately affect women, low-income individuals, and children because the caps on noneconomic damages will affect them. Since they do not make a lot of money, they will not have a lot of economic damages to be awarded by the courts.

Real people will suffer a second injustice under this legislation, people like Heather Lewinski, who came before our

committee and testified, a 17-year-old girl who suffered permanent facial disfigurement at the hands of a plastic surgeon who lied to her and her family. And this young woman came before us and said her greatest fear was she would never have a date. People like Linda McDougal. This is Linda McDougal in this poster right here. Linda McDougal's breasts were amputated after she had been misdiagnosed with cancer, and here she is today. She was completely fine. And the family of Jessica Santillan, a little girl who died because the hospital failed to ensure that the heart and lungs she was about to receive would be compatible with her blood type. Her family will be denied just compensation for her suffering.

If we really wanted to fix the crisis that is plaguing our Nation's doctors, we should take a good look at the insurance industries, as we heard from my colleague from Ohio. Instead, we are considering a bill that is akin to curing a headache by amputating an arm. Arbitrarily limiting patients' rights is not fair, and it will not solve the problem.

Let me talk for a minute about some of the anecdotes upon which we are basing this legislation. We heard that obstetrics wards were closing down because of liability insurance premiums. The example given by the AMA said that Pennsylvania's Jefferson Health System closed its obstetrics ward because of this reason, but 2 years later this obstetrics ward is still up and running and accepting new patients. In May, 2003, the AMA said that a group of 10 neurosurgeons in Washington State had been dropped by their malpractice insurer. As of 2004, the group is doing just fine and taking new patients. Finally, in January 2004, just a few months ago, President Bush said there was a doctor in Arkansas who stopped delivering babies because of rising insurance costs. That turned out to be completely untrue.

If there is a problem here, let us let the States fix it. Let us not put it on people like Linda McDougal.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, what the gentlewoman from Colorado did not tell us is what is not getting media attention, and that is that doctors are closing up their practices. When the Committee on the Judiciary heard testimony on this issue, the wife of a man named Tony Dyess came and spoke. Mr. Dyess was involved in an automobile accident. He had a spinal cord injury, and because there were no neurosurgeons left in southern Mississippi, it took 6 hours to airlift him to a hospital in Louisiana that has some better medical liability laws, and the golden hour for neurosurgery had passed; and as a result Tony Dyess is a quadriplegic simply because malpractice insurance costs chased the neurosurgeons out of southern Mississippi.

This is an issue of access to health care, and we cannot have liability insurance costs force doctors to close their practices and not have access to people who need doctors and need them desperately.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I rise today in strong support of H.R. 4280. This country's health care system and its providers are currently faced with a crisis in regards to medical liability coverage; and, in fact, my home State of Pennsylvania unfortunately leads the way. Our doctors are leaving or retiring, and currently only 4 percent of physicians practicing in Pennsylvania are under the age of 35. Students graduating from our medical schools are choosing not to stay in Pennsylvania to practice medicine. The largest hospital in my district, the Altoona Hospital, their malpractice insurance has gone from in 2000 \$1 million a year to \$2.7 million in 2003; \$1.7 million, and not a penny of it is going to improve care to the patients and the people of my district.

This real increasing threat to patients' access to quality care cannot be ignored. The medical liability system in this country is in desperate need of reform. So I urge my colleagues to vote "yes" on H.R. 4280.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I will enter into the RECORD an article from the Morning Call newspaper in Pennsylvania, and I will just read the first sentence. April 23, 2004, "The chairman of the Pennsylvania Medical Society acknowledged Thursday to State lawmakers that the doctors group lacks statistical evidence to support its 3-year claim that doctors are leaving the State in large numbers."

The whole article will be introduced.

I have the GAO study that was cited June, 2003; and let me just read a couple of points out of it:

"Multiple factors have contributed to the recent increases in medical malpractice premiums in seven States we analyzed. First, since 1998 insurers' losses on medical malpractice claims have increased rapidly in some States," and they "found that the increased losses appeared to be the greatest contributor to increased premium rates, but a lack of comprehensive data at the national and State levels on insurers' medical malpractice claims and the associated losses prevented us from fully analyzing the composition and causes of those losses."

"Second, from 1998 through 2001, medical malpractice insurers experienced decreases in their investment income as interest rates fell on the bonds that generally make up around 80 percent of these insurers' investment portfolios."

"... a decrease in investment income meant that income from insurance premiums had to cover a larger

share of insurers' costs. Third, during the 1990s, insurers competed vigorously for medical malpractice business, and several factors, including high investment returns, permitted them to offer prices that in hindsight, for some insurers, did not completely cover their ultimate losses on that business. As a result of this, some companies became insolvent or voluntarily left the market, reducing the downward competitive pressure on premium rates that had existed through the 1990s."

I say that to say that there are a number of factors that have caused the premiums to go up that have nothing to do with the medical malpractice situation or the laws in medical malpractice and that this bill may or may not have anything to do with future premiums.

[From the Morning Call, April 23, 2004]

DOCTORS CAN'T PROVE THINNING RANKS

(By John M.R. Bull)

HARRISBURG.—The chairman of the Pennsylvania Medical Society acknowledged Thursday to state lawmakers that the doctors group lacks statistical evidence to support its three-year claim that doctors are leaving the state in large numbers.

"Some data sources show an 800-doctor gain," internist Daniel Glunk of Williamsport testified before the House Insurance Committee. "The problem is no one has definitive numbers . . . and that there is conflicting data."

That number includes 1,000 medical residents. If those aren't counted, he said, there would be a net loss of 200 doctors out of 35,500 since 2002.

"How can the medical society, if you can't agree on the numbers, continue to tout that doctors are leaving" said Rep. Thomas Tangretti, D-Westmoreland, his voice rising in apparent anger. "You've run ads saying will the last doctor please turn off the X-ray machine."

"You've been frightening people, particularly senior citizens, and now we find it was all probably wrong-headed and disingenuous," Tangretti said, getting louder. "Before you continue to frighten people about access to health care, you better get your numbers right. It's an outrage."

Other lawmakers voiced irritation at his testimony, delivered four days after The Morning Call published new and previously undisclosed figures—some of them from the medical society itself—that make clear doctors are not leaving in large numbers.

For three years, the doctors lobby has insisted that doctors, particularly specialists who perform high-risk procedures, are leaving the state in droves, putting patient care in jeopardy.

Among other tactics, the medical society has promoted a list of 1,700 "disappearing doctors" as proof there are fewer physicians in Pennsylvania.

The Morning Call revealed Sunday that new state Insurance Department numbers show doctors have not left the state in waves. There were 35,474 doctors in 2002, as determined by the number who paid their state-mandated supplemental insurance. Now the figure is at least 34,997.

The newest number includes doctors who have applied to the Insurance Department for a piece of \$230 million in state tax dollars recently appropriated to offset their rising malpractice premiums, along with a separate list of doctors who had primary insurance coverage at the end of last year but who haven't yet applied for state money.

That total doesn't include doctors who might have moved to Pennsylvania in the last year, might not be in Insurance Department records yet, and who might not know the state has money set aside for them.

In one of several criticisms of The Morning Call's work, the medical society has contended it might be misleading to compare 2002 figures to a list of individual doctors who recently applied for state money and others known to have malpractice insurance at the end of last year. But society officials have not publicly explained why that could be the case.

The new Insurance Department figures show no appreciable reduction in the number of high-risk specialists, a maximum reduction of 56 out of 4,700 since 2002. The medical society has admitted it has separate statistics that show a reduction of only 16 specialists—defined as neurosurgeons, general surgeons, orthopedic surgeons and ob-gyns—during that time frame.

"This a matter of credibility," Rep. Nick Micozzie, R-Delaware, chairman of the House Insurance Committee, said after the hearing. "We've been hearing for three years now that doctors are leaving in large numbers and there is a shortage."

"I go into my doctor's office and there's a sign that says 'Call Nick Micozzie to Save Our Doctors,'" he said. "Well, saving our doctors is a different issue than claiming doctors are leaving in large numbers."

In reference to the three-year campaign, Glunk told the committee that anecdotal evidence indicates there aren't enough of some kind of specialists in some parts of the state, and that not enough young doctors are choosing to move to Pennsylvania.

For three years, the medical society and its associated group, Politically Active Physicians Association, have waged an intensive public relations and lobbying campaign to convince legislators and their constituents that doctors are fleeing the state en masse.

The effort was triggered by medical malpractice premiums that started soaring in 2001 and continue to climb. Rather than pay prices that doubled seemingly overnight, some doctors did indeed depart, others altered their practices to avoid high-risk procedures.

As a result, lawmakers have enacted a series of court reforms sought by doctors as a way to drive down the rising premiums. A new cigarette tax raises roughly \$230 million a year to help doctors afford malpractice premiums. Applications for that money are being processed now.

Doctors continue to demand a cap on jury awards on pain and suffering damages in malpractice lawsuits and have threatened to leave the state if they don't get them.

On Thursday, Glunk told the panel of lawmakers that the disappearing doctors list is not actually a list of doctors who disappeared. It is more of a list of doctors who might have been impacted by rising malpractice rates and who might have retired, moved, or curtailed their practices as a result, he explained.

The list makes no mention of doctors who have relocated to Pennsylvania since 2002, lawmakers noted.

"Naturally people leave their profession. You don't count doctors coming in," said Rep. Tony DeLuca, D-Pittsburgh told Glunk. "If you don't have accurate statistics on the number of doctors, how can we tell? How can we make policy like that?"

Lawmakers from both parties say the list—created and maintained by Donna Rovito, the wife of an Allentown physician—has been used extensively as a lobbying tool to support doctor claims.

Democratic House leaders Thursday called for a moratorium on any more medical malpractice reforms until lawmakers ascertain

whether doctors are leaving the state in large numbers, and whether the medical society deliberately misled lawmakers.

"The data they repeatedly cite, and which served as the basis for legislative action in the last two years, appears to be seriously inaccurate and part of a deceptive campaign," said Rep. Mike Veon, D-Beaver, the House Minority Whip. "We want the real numbers and there should be no further action until the deficiencies of the data are corrected and we know the truth."

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair advises Members that the gentleman from Wisconsin (Mr. SENSENBRENNER) has 9 minutes remaining, the gentleman from Virginia (Mr. SCOTT) has 6 minutes remaining, and the gentleman from Pennsylvania (Mr. GREENWOOD) has 1 minute remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the underlying legislation. I want to compliment both the chairman of the Committee on the Judiciary, and the Committee on the Judiciary itself, as well as the chairman of the Committee on Energy and Commerce, and the Committee on Energy and Commerce itself, for bringing this legislation forward. This is critically needed legislation.

We face a crisis in this country in health care because of a runaway tort system. But the specific point I want to make goes to the next step in this process. Under current law, a law called EMTALA, passed by this Congress in 1986, millions of dollars' worth of free health care is provided at our Nation's emergency rooms across the country. It is provided because we have decided that someone who presents himself to an emergency room should not be denied that care, and so they must be screened and they must be initially treated and they must be stabilized. And I think that is a fair and balanced social policy which says that we in this country do not want anyone to go without health care; and clearly that is an important, appropriate policy that we have adopted.

But I think there is an unintended consequence of that law. The law says that this care must be provided by doctors and hospitals for free of these emergency rooms, but it does not provide that they have to provide their own malpractice insurance to cover that, and yet the current law says if they are sued for malpractice in such circumstances, they must pay the damages.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself 30 seconds.

During the debate, we have talked about how much debate is going on. I just point out that this debate is on a closed rule so that we cannot offer amendments to the bill. We have to take it or leave it. There are a lot of improvements that could be made if we

have a full and open debate. That is not happening today because the majority passed a closed rule prohibiting any amendments to the bill.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair will advise Members that the order of closure will be the gentleman from Pennsylvania (Mr. GREENWOOD) followed by the gentleman from Virginia (Mr. SCOTT) followed by the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time.

Health care providers in my district need relief. Doctors, nurses, and hospitals all are struggling to shoulder the burden of the escalating cost of medical malpractice insurance.

Many regions of the country have been hit especially hard by this medical liability crisis, and doctors are leaving my district in suburban Chicago and moving to Wisconsin or Indiana to practice where medical malpractice insurance costs significantly less.

I certainly do not want them to go, but I understand why they are leaving or why some are choosing to retire early. The price of medical malpractice insurance has made it cost prohibitive for physicians to practice. It is not just doctors either. Hospitals, many of which struggle every year to keep solvent, have been hit especially hard. I am confident that the House will pass H.R. 4280, and I encourage all of my colleagues to support it; but it is time for the other body to act and pass this bill. Congress's inaction to address the medical liability crisis is driving doctors out of all of our districts.

The time has come to address this problem and pass the HEALTH Act.

□ 1700

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. SHADEGG. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding. I apologize for the rather disjointed nature of this presentation.

Mr. Speaker, the point I wanted to make is we under EMTALA require doctors and hospitals to provide free health care in our emergency rooms. That may be appropriate as public policy, but the unfair context is that while forcing them to provide this free care, if they in fact are alleged to have committed malpractice, either the hospital or the doctor while providing free health care, they are on the hook for that alleged malpractice.

It seems to me only fair that if we are going to force doctors and hospitals

to provide free health care to anyone who presents at an emergency room, then we should either cover the cost of their medical liability arising out of that, which I have proposed in an amendment and in separate legislation, providing that free EMTALA care would come under the Federal Torts Claims Act or we should grant immunity.

It seems to me to add insult to injury to say to a doctor at a hospital, you must provide free health care to anyone who presents at your emergency room and you must pay for the substantive cost of that health care, but that in addition to that, you must cover the medical liability that arises out of it.

That is in fact driving doctors away from emergency rooms and imposing unfair costs on both emergency rooms and emergency room doctors, and I hope the Congress will consider that legislation in the near future.

Mr. SCOTT of Virginia. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE).

The SPEAKER pro tempore (Mr. SWEENEY). The gentlewoman from Texas is recognized for 5½ minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, to the distinguished gentleman from Virginia and to my ranking member and colleagues on the floor, this reminds me of *deja vu* and here we go again.

I am reminded that we were here on the floor of the House not very long ago dealing with the catastrophe of medical malpractice insurance and the desire to deny access to the courthouse. I am reminded as well that we had the good conscience, if you will, to have a vigorous debate.

Now we are on the floor of the House with exactly 1 hour, no opportunity for a substitute, it is my understanding, in combined time between the Committee on Energy and Commerce and the Committee on the Judiciary, two very important committees as it relates to dealing with the medical malpractice question.

We also seemingly are not confronted by the reality of life. More and more Americans are uninsured, some 44 million. Today we have spent time trying to address the question of whether or not we can insure those Americans. Yet we come today with an overall one-shoe-fits-all Federal legislative initiative rather than allowing, first of all, the possibility that each State address their own concerns.

This bill, in essence, is a bill that will take away the rights. For example, parents who lose a child due to a tragedy like the one in North Carolina recently, where the wrong heart and lung were placed in a young girl, they do not lose any money, they lose part of their souls. But now we are going to tell them that their child was only worth \$250,000 in noneconomic damages for all of their pain and suffering. We are being told we are going to do this

to such devastated families in order to enable our doctors to keep treating patients.

Well, let me say this: I would rather stand on the side of those who access the courthouse.

H.R. 4280 calls for a protracted statute of limitations in which a plaintiff may file a claim. Such a restrictive statute of limitations cuts off legitimate claims. A reduced statute of limitations shortens the time that injured patients and their families have to file claims.

This provision is ultimately designed to eliminate claims for diseases with long incubation periods. That means, for example, that if a patient contracted HIV-AIDS from tainted blood but the symptoms of HIV did not present itself for at least 5 years, which is often the case, there would be no remedy that this Congress would allow because this enacted 2-year statute of limitations.

The gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL) had an alternative that speaks more to the accrual of a right of action. Therefore, a person who upon reasonable knowledge would not know that they had contracted a condition such as HIV, would still have a right to action.

The bill before us today also provides arbitrary and discriminatory caps on noneconomic damages that will hurt those patients with the most serious injuries. Proponents of medical malpractice reform want to limit noneconomic damages to \$250,000 in the aggregate, regardless of the number of parties responsible for a patient's injury and regardless of the number of parties against whom an action is brought.

Noneconomic damages compensate injured patients for very real injuries such as the loss of a limb, loss of sight, permanent infertility or even the loss of a child. Damage caps have a tremendously negative impact on the permanently or catastrophically injured person who is more in need of financial protection, for only the most seriously injured receive damage awards greater than the cap. Even the AMA has testified that caps affect only those cases involving severe injury where the victim faces the greatest need for compensation.

I include those remarks in the RECORD so that I can speak to the physicians who are listening today, hopefully to understand that this is not a battle with you. This is not a battle between patients and physicians. This is not a battle between those of us who oppose caps on noneconomic damages and statutory limitations and what is a bad medical malpractice bill. This is not a battle.

What it is to say is, frankly, this. We all have a part in contributing to good health care. This medical malpractice legislation does not contribute to good health care. What it simply says is those who have the least will get the

least, primarily when it comes to dealing with catastrophic illnesses which may ruin their life forever, which provide an economic burden on their caretakers forever, which in essence does not provide the necessary punitive measures for those who have done wrong.

We realize that there are good doctors, and we support that. My question is, let me have a full study again of all the insurance companies who can tell me that their premiums will go down because of this legislation.

We have passed a legislative initiative in Texas, and to defend themselves for such a horrible bill, we have had a number of editorials saying how things have gotten better. We still have uninsured children in Texas, we still have people injured in Texas without the proper benefits, and we have not seen a decrease in insurance premiums as well.

This is a bad medical initiative, if that is what it is supposed to be. To doctors, we promote all of the legislative initiatives to help you be good doctors. We are supportive of decreasing the insurance premiums that put you out of business, better Medicaid and Medicare regulations, but we are not supportive of a legislative initiative that does nothing but tear up the Constitution, undermine our values, and does not save lives.

I ask my colleagues to vote against this.

Mr. Speaker, I was enormously disappointed with the rule that was issued on this bill and call on my colleagues to defeat the underlying bill as well. We have a health care crisis on our hands. We need to work together in a democratic fashion to address it: to improve access to care, to protect patients, to ensure that good physicians can afford to continue treating those patients, and to decrease frivolous lawsuits. Last year in March we fought to defeat a bill, H.R. 5, which sought to reform tort law to the detriment of patients, physicians, patients, and injured plaintiffs. The underlying identical bill is before us today and it seeks to do the same thing. The Ranking Member of the House Judiciary Mr. CONYERS and Mr. DINGELL offered a substitute during the Rules Committee hearing that would have ensured that these concerns were addressed. Not a single one of those excellent ideas will be even considered today.

What in the name of God and Country is our Democracy coming to when on the Floor of the House of Representatives, there is not a single chance to debate and vote on one of many ideas that could save lives and rescue our floundering health care system?

I hate the idea of putting a price tag on human life, or a value on pain and suffering. However, we all know that malpractice premiums are outrageously high in some regions and for some specialties of medicine. I understand that some physicians are actually going out of business because the cost of practicing is too high and that we run the risk of decreasing access to healthcare if we do not find a way to decrease malpractice insurance premiums.

However, it would be doubly tragic if we did compromise the ability of patients suffering

from medical negligence from seeking recourse in our courts, and did not achieve any meaningful decrease in malpractice premiums. Therefore, I considered offering three amendments yesterday that would require that all malpractice insurance companies make a reasonable estimate each year of the amount of money they save each year through the reduction in claims brought about by this Act. Then they would need to ensure that at least 50 percent of those savings be passed down in the form of decreased premiums for the doctors they serve.

I shared this concept with doctors and medical associations down in Texas, and they were very enthusiastic, because this amendment would ensure that we do what, I am being told, this bill is supposed to do—lower premiums for doctors.

Without my provision, this bill could easily end up being nothing more than heartbreak for those dealing with loss, and a giant gift to insurance companies. Parents who lose a child due to a tragedy like the one in North Carolina recently where the wrong heart and lung were placed in a young girl—they don't lose any money—they lose a part of their souls. We are going to tell them that their child was only worth \$25,000 in non-economic damages for all of their pain and suffering. We are being told that we are going to do this to such devastated families, in order to enable our doctors to keep treating patients.

H.R. 4280 calls for a protracted statute of limitations in which a plaintiff may file a claim. Such a restrictive statute of limitations cuts off legitimate claims. A reduced statute of limitations shortens the time that injured patients and their families have to file claims. This provision is ultimately designed to eliminate claims for diseases with long incubation periods. That means, for example, that if a patient contracted HIV from tainted blood, but the symptoms of HIV did not present for at least five years—which often is the case—there would be no remedy if Congress enacted a two-year statute of limitations.

Mr. CONYERS and Mr. DINGELL had an alternative that speaks more to the accrual of a right of action. Therefore, a person who, upon reasonable knowledge, would not know that they had contracted a condition such as HIV, would still have a right of action.

The bill before us today also provides arbitrary and discriminatory caps on non-economic damages that will hurt those patients with the most serious injuries. Proponents of medical malpractice reform want to limit noneconomic damages to \$250,000 in the aggregate, regardless of the number of parties responsible for a patient's injury and regardless of the number of parties against whom an action is brought. Non-economic damages compensate injured patients for very real injuries—such as the loss of a limb, the loss of sight, permanent infertility or even the loss of a child. Damage caps have a tremendously negative impact on the permanently or catastrophically injured who are most in need of financial protection for only the most seriously injured receive damage awards greater than the cap. Even the AMA has testified that caps affect only those cases involving severe injury where the victim faces the greatest need for compensation. When damages caps leave such victims unable to meet the costs associated with their injuries, the government is often left footing the bill with taxpayer dollars.

Non-economic damage caps are unfair to women. Capping non-economic damages, while at the same time preserving full compensation for economic loss, such as lost wages and lost salary, shamefully devalues the worth of homemakers and stay-at-home moms. Moreover, by protecting medical device manufacturers specifically, the bill favors the makers of those very products—such as the Dalkon Shield and Copper 7 intrauterine devices—that have caused devastating harm to women.

Medical malpractice in the United States is a very real problem with devastating consequences. We hear about countless medical horror stories, whether involving a botched surgery, a mix-up in the medical records, an unnecessary amputation, or the discovery of medical objects inside patients.

I offer a few case studies to illustrate the terrible downward trend that we can expect with the passage of this ill-crafted bill:

Sandra Katada of McKinney, Texas: During the birth of Sandra's daughter Alexandra, the doctor contorted and stretched Alexandra's spine, destroying her nerves and leaving her partially paralyzed. The doctor applied so much force that, in addition to the spinal injury, which would prove fatal, the baby's elbow was broken and pulled from its socket. Some of the damaged spinal nerves were responsible for stimulating the growth of her rib cage. But because the nerves were damaged, her ribs did not expand, and when the rest of her body grew over the next several months she suffocated inside her small rib cage. Alexandra died on Valentine's Day, 1994, at age 8-months-old. The Katadas settled the case against the doctor for the insurance company's policy limits, \$1 million.

A Dallas Morning News investigation found that two other babies in this doctor's care had died in the 3 years before the Katada's and another died after their baby died. In one of those cases, by the time the parents found out that this doctor had caused their baby's injuries, it was too late to go to court because the 2-year statute of limitations had run out. All the families complained to the Texas Medical Board about this doctor but he is still practicing.

Dylan Malone of Everett, WA: Dylan's son Ian suffered severe brain damage at birth after a doctor used a drug to induce labor that the manufacturer explicitly warned should not be used for that purpose. Ian cannot hold his head up, suck, swallow or gag properly and requires 16 hours of nursing care per day. He eats through a feeding tube in his abdomen, breathes with a ventilator, takes medication daily to prevent seizures and needs a sedative to sleep. The family sued the doctor, who already had a number of medical malpractice cases filed against him. The Malone case is still pending.

I will not vote for H.R. 4280, because as it is, it does nothing to decrease the premiums our nation's physicians are burdened with. It does nothing to decrease the number of frivolous lawsuits. It does nothing to decrease the amount of malpractice being inflicted upon the American people, by bad doctors who are jeopardizing the lives of their patients, and driving up the insurance costs of their colleagues. And it does nothing to protect the rights of those suffering in the wake of an act of medical negligence. H.R. 4280 does nothing to respond to these problems of rampant

medical malpractice. I reiterate that the substitute offered by Mr. CONYERS and Mr. DINGELL at the hearing before the Rules Committee was a more prudent alternative. Our colleagues on the other side of the aisle wish to shove this bill down the feeding tubes of the helpless and sickly patients who sit and suffer from a health care system that seeks to pad the pockets of insurance companies.

I strongly oppose H.R. 4280 and I urge my colleagues to join me.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, the gentlewoman from Texas is right. We did do a similar bill statewide in Texas and it passed last September, and it really has provided physicians in the State of Texas a significant amount of relief from the high cost of liability premiums.

My last year in active practice was 2002, and I paid \$19,000 a year in obstetrics and gynecology for that privilege. If I had bought that insurance in 2003, it would have increased to \$45,000. This year, had I purchased that same insurance policy, it would have been back down to \$25,000, obviously a significant increase.

But we really are not talking about the cost of a liability premium for a doctor, we are talking about the embedded cost of an unfair medical justice system on our entire medical system, and we can no longer afford to pay that price.

A study done at Stanford University in 1996 showed that if you remove the cost of defensive medicine from Medicare, you would save \$50 billion a year. That would pay for our prescription drug benefit, whether the CBO or the OMB does the figures.

Mr. GREENWOOD. Mr. Speaker, I yield myself the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania.

The SPEAKER pro tempore. The gentleman from Pennsylvania is recognized for 2 minutes.

Mr. GREENWOOD. Mr. Speaker, I would like to read from two letters. The first is from Engel, Smith & Associates, an obstetrics and gynecology practice, a letter written to their patients.

"It is with great sadness that we are writing to inform you of the plan to close in its present configuration the Engle, Smith & Associates obstetrics and gynecology practice. We have diligently tried over the past several months to find an alternative solution as we struggle with this decision. Unfortunately, the practice environment for physicians in our specialty has become so difficult that we have no choice but to dramatically change the way in which we provide care.

"We, like many of our colleagues in high-risk specialties such as obstetrics, have a crisis situation because our malpractice insurance premiums have more than doubled in the past 2 years.

These increases are being driven primarily by skyrocketing jury awards in Pennsylvania, which have been forcing both insurance companies and physicians out of business."

Here is the impact on patients, a letter to me.

"I am a Pennsylvania native. I was born and raised in the Philadelphia area, an area that used to be known for excellent medical care. Eight months ago, I again found a wonderful OB-GYN office. The doctors are wonderful, respectful and well-educated and overall just great. They delivered my beautiful baby girl for me, and I could not have been happier with their care. I referred my sister, who is currently pregnant and due in a few short weeks. She too, is satisfied with them.

"Two weeks ago we were outraged to discover that they were closing the doors at the end of May 2002. My sister, who has been going to their office for all her prenatal care visits, cannot even have her after-delivery exam by the doctor who delivers her first child. I will not be able to return to them for subsequent health care or even normal GYN care.

"This is an outrage. It is also the second physician's office I have been to in the last couple of years that has been forced to close due to medical liability costs. Another office that I was aware of closed as well for the same reason. I cannot even switch to see them, because they no longer exist within our State. I do not know who I can go to even now. No other OB-GYN physicians practice in my area anymore."

Mr. Speaker, this is the face of the medical malpractice crisis. This is the bill that will resolve that crisis. We believe that this legislation will solve the crisis in the near term for malpractice insurers, for doctors and for patients, and, in the long run, for 3.9 million Americans, give them health care that they do not have today.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 4 minutes.

Mr. SENSENBRENNER. Mr. Speaker, during the course of the debate we have heard a string of red herrings from people who do not wish this bill to pass. I would like to rebut those from the study that the General Accounting Office made on the whole topic of our medical liability crisis.

First, as the gentleman from Pennsylvania (Mr. GREENWOOD) has eloquently stated, patient access to care is being harmed. He recounted the case of a pregnant woman who went to at least two OB/GYN practices to get a doctor to deliver her baby and was told that as a result of the medical liability crisis, they were shutting down the doors to their practice.

The GAO confirmed instances in the five States selected for study where actions taken by physicians in response to malpractice pressures have reduced

access to services affecting emergency surgery and newborn deliveries. When the baby comes, you cannot wait. When someone has an accident and needs emergency surgery, you cannot wait. And if the malpractice insurance crisis closes down those practices, people are going to be harmed, and they will die, and this bill will stop that.

Secondly, doctors do practice defensive medicine. The GAO report found that in response to rising premiums, "the fear of litigation research indicates that physicians practice defensive medicine in certain clinical situations, thereby contributing to health care costs."

The gentleman from Texas (Mr. BURGESS) said that if unnecessary defensive medicine does not have to be practiced by reforming our liability laws, Medicare alone will save \$50 billion a year, which is more than enough to pay for the prescription drug benefit, whether it is by the GAO study or the OMB study.

Third, insurers are not to blame for skyrocketing premiums. The gentleman from Ohio (Mr. BROWN) seemed to think they are.

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But the GAO found that insurers are not to blame. The report states that insurer "profits are not increasing, indicating that insurers are not charging and profiting from excessively high premium rates," and that "in most States the insurance regulators have the authority to deny premium rate increases they deem excessive."

Fourth, rising litigation awards are the problem, not insurer investments. What did the GAO say? The GAO found that losses on medical malpractice claims which make up the largest part of insurers' costs appear to be the primary driver of rate increases in the long run.

"Since 1998, insurers' losses on medical malpractice claims have increased rapidly in some States. However, none of the studied companies experienced a net loss on investments, at least through 2001, the most recent year such data were available. Additionally, almost no medical malpractice insurers overall experienced net investment losses from 1997 to 2001." So much for that red herring.

Finally, liability reform does have a real impact. The GAO concludes that data indicate that rates of growth in malpractice premiums and claims payments have been slower on average in States that enacted certain caps on damages for pain and suffering, referred to as noneconomic damage caps, than in States with more limited reforms and that average per capita payments for malpractice claims against all physicians tended to be lower on average in States with noneconomic damage caps than in States with limited reforms.

This bill is a good one, and it ought to be passed.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in opposition to out-of-control medical

malpractice premiums but also in opposition to H.R. 4280. Once again, we are being asked to vote on a bill that claims to be a solution to a very real problem but which will simply not do the job of lowering premiums. Once again, we are being asked to vote on legislation that ignores the major component in the medical malpractice insurance crisis—insurance.

A study of the medical malpractice situation in my State of Illinois found last year that there was little, if any, correlation between medical malpractice payments and medical malpractice premiums. The Americans for Insurance Reform report found that the amount of jury awards and settlements has actually declined since 1991, below the rate of medical inflation. In constant dollars, the amount of medical malpractice jury awards and settlements per doctor has decreased over the past decade in Illinois.

As providers in my State know all too well, their medical malpractice premiums are going in the opposite direction. Instead of tracking payouts, they are tracking economic conditions and insurance company investment decisions. Imposing arbitrary caps on non-economic damages—which would especially limit potential payments to injured infants and senior citizens—is not the answer when the problem is poor investment choices by insurance companies and economic conditions.

As a member of the Energy and Commerce Committee, I had the opportunity to participate in hearings on H.R. 5, last year's medical malpractice bill. We never heard a medical malpractice insurer testify that passage of that bill would lower premiums or that the Federal government should even be allowed to track the effects on medical malpractice premiums if H.R. 5 were to pass. That failure was no surprise given multiple statements made by medical malpractice insurance company officials before State legislatures around the country, that tort reform will not lower rates. Even Sherman Joyce, president of the American Tort Reform Association, has said that "We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates." Victor Schwartz, general counsel of ATRA, has said, "(M)any tort reform advocates do not contend that restricting litigation will lower insurance rates, and 'I've never said that in 30 years.'"

Caps won't make medical malpractice premiums affordable but there are other proposals that would make a real difference in providing affordable coverage. As a member of the House Medical Malpractice Crisis Task Force, I had hoped that we would take the opportunity to explore those opportunities instead of being presented with the same bill that we voted on last year, the same bill that the insurance industry itself says won't lower premiums.

Here are many ideas that I believe are worthy of consideration but that, unfortunately, are not included in H.R. 4280. We know that insurance reform in California requiring a premium rollback and improving review had a positive impact in lowering medical malpractice premiums—after tort reform did not. We could have created a Commission on Medical Malpractice Insurance to investigate the real causes for premium increases and consider solutions such as mandatory loss-ratio requirements, experience rating, and a Federal reinsurance mechanism. We could have established a certification mechanism to

make sure that cases are meritorious, expand Rule 11 sanctions for anyone who falsifies information as part of that process, and encourage arbitration while requiring that savings are passed through by insurers in the form of lower premiums. We could have repealed the McCarran-Ferguson Act that shields medical malpractice insurers from Federal antitrust laws. We could have provided a tax deduction to help health care providers and professionals faced with sharp premium increases.

Instead of considering those initiatives, we are being asked to once again pass legislation that restricts the rights of injured patients and their families to seek legal remedies, not just against doctors, but against HMOs and other insurers, nursing homes, medical labs, drug companies, medical device manufacturers and others. For the first time, the Federal government would intrude on what has always been a State authority to take away consumer rights. Yet, the insurance industry itself refuses to say whether doing so will have the effect of lowering rates. It is the wrong answer to a very real problem.

In the future, I hope that we will be given the chance to look at ways to address insurance industry practices and reduce the incidences of medical malpractice by improving health care quality. In the meantime, we should reject this bill.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 4280, legislation that would undermine the right of patients and their families to seek appropriate compensation and penalties when they, or a loved one, are harmed or even killed by an incompetent health care provider.

At best, this bill is a wrong-headed approach to the problem of rising malpractice health insurance costs. At worst, it is designed to protect bad doctors, HMOs, and other health care providers from being held accountable for their actions. Either way, this bill is harmful to consumers and should be defeated.

The most ludicrous aspect of this debate today is the fact that it is completely unnecessary. The House already passed this exact same legislation last March and there is no need for us to be here debating it again.

The only reason that Republicans are bringing up this bill today is that it is "Cover the Uninsured Week" and they have no real proposals to help cover the uninsured. So, they are trotting out medical malpractice reform so they can have another vote that doctors appreciate and they can again blame the Senate for not taking action on the legislation. It is political showmanship pure and simple—it has no other meaning.

This bill is identical to H.R. 5 which was passed last year, so if my comments look familiar, it is because I am raising the exact same points in opposition.

The Republican Leadership has once again brought forth a bill that favors their special interests at the expense of patients and quality health care. Doctors, hospitals, HMOs, health insurance companies, nursing homes, and other health care providers would all love to see their liability risk reduced. Unfortunately, this bill attempts to achieve that goal solely on the backs of America's patients. I said, "attempts to achieve that goal" intentionally.

Despite the rhetoric from the other side, there is absolutely nothing in H.R. 4280 that guarantees a reduction in medical malpractice premiums. There is not one line to require that

the medical malpractice insurance industry—in exchange for capping their liability—return those savings to doctors and other providers they insure through lower malpractice premiums. To quote one of many economists on this matter, Frank A. Sloan, an economics professor from Duke, recently said, “If anyone thinks caps on pain and suffering are going to work miracles overnight, they’re wrong.” In fact, the outcome of this bill could have zero impact on lowering malpractice premiums and instead go into the pocketbooks of the for-profit medical malpractice industry. Of course, the bill’s proponents avoid mentioning that very real possibility.

Proponents of this bill also like to say that they are taking California’s successful medical malpractice laws and putting them into effect for the Nation. This is also hyperbole. California did not simply institute a \$250,000 cap on medical malpractice awards. The much more important thing California did was to institute unprecedented regulation of the medical malpractice insurance industry. This regulation limits annual increases in premiums and provides the Insurance Commissioner with the power and the tools to disapprove increases proposed by the insurance industry. It is this insurance regulation that has maintained lower medical malpractice premiums. Yet, the bill before us does absolutely nothing to regulate the insurance industry at all.

Supporters of this bill would have you believe that medical malpractice lawsuits are driving health care costs through the roof. In fact, for every \$100 spent on medical care in 2000, only 56 cents can be attributed to medical malpractice costs—that’s one half of one percent. In addition, a recent report by the Congressional Budget Office highlights the same fact. Specifically the report states, “Malpractice costs amounted to an estimated \$24 billion in 2002, but that figure represents less than 2 percent of overall health care spending. Thus, even a reduction of 25 percent to 30 percent in malpractice costs would lower health care costs by only about 0.4 top 0.5 percent, and the likely effect on health insurance premiums would be comparably small.” So, supporters are spreading false hope that capping medical malpractice awards will reduce the costs of health care in our country by any measurable amount. It won’t.

What supporters of this bill really do not want you to understand is how bad this bill would be for consumers. The provisions of this bill would prohibit juries and courts from providing awards they believe reasonably compensate victims for the harm that has been done to them.

H.R. 4280 caps non-economic damages. By setting an arbitrary \$250,000 cap on this portion of an award, the table is tilted against seniors, women, children, and people with disabilities. Medical malpractice awards break down into several categories. Economic damages are awarded based on how one’s future income is impacted by the harm caused by medical malpractice. There are no caps on this part of the award. But, by capping non-economic damages, this bill would artificially and arbitrarily lower awards for those without tremendous earning potential. This means that a housewife or a senior would get less than a young, successful businessman for identical injuries. Is that fair? I don’t think so.

The limits on punitive damages are severe. Punitive damages are seldom awarded in mal-

practice cases, but their threat is an important deterrent. And, in cases of reckless conduct that cause severe harm, it is irresponsible to forbid such awards.

The issue of rising malpractice insurance costs is a real concern. I support efforts by Congress to address that problem. That is why I would have voted for the Democratic alternative legislation that Reps. CONYERS and DINGELL brought to the Rules Committee last night. Unlike H.R. 4280, the Dingell/Conyers alternative would not benefit the malpractice insurance industry at the expense of America’s patients. Instead, it addresses the need for medical malpractice insurance reform—learning from the experience of California—to rein in increasing medical malpractice premiums. Rather than enforcing an arbitrary \$250,000 cap, the bill makes reasonable tort reforms that address the problems in the malpractice arena—penalties for frivolous lawsuits and enacting mandatory mediation to attempt to resolve cases before they go to court. It also requires the insurance industry to project the savings from these reforms and to dedicate these savings to reduced medical malpractice premiums for providers. The Dingell/Conyers bill (H.R. 1219) is a real medical malpractice reform bill that works for doctors and patients alike.

The Democratic alternative bill is such a good bill that the Republican leadership refused to let it be considered on the House floor today. They were afraid that if Members were given a choice between these two bills, they would have voted for the Democratic bill. Once again the House Republican leadership has used their power to control the rules to stymie democratic debate.

Medical malpractice costs are an easy target. My Republican colleagues like to simplify it as a fight between America’s doctors and our Nation’s trial lawyers. That is a false portrayal. Our medical malpractice system provides vital patient protection.

The bill before us drastically weakens the effectiveness of our Nation’s medical malpractice laws. I urge my colleagues to join me in voting against this wrong-headed and harmful approach to reducing the cost of malpractice premiums. It is the wrong solution for America’s patients and their families.

Mr. KIND. Mr. Speaker, my home State of Wisconsin has sensible medical malpractice laws that make the State attractive to doctors and safe for patients. The components of this successful law include a cap on non-economic damages of \$442,000, which is indexed annually for inflation; a requirement that all providers carry malpractice insurance; and a victims’ compensation fund.

The victims’ compensation fund is a unique entity that has served both patients and health care providers well. The fund operates by collecting contributions from Wisconsin health care providers and paying the victims once an award has been determined. The physicians are liable only for the first \$1 million in an award. If the award exceeds \$1 million, the compensation fund will pay the remainder of the award. For several years now, this system has served the State well. Like many of my colleagues, I believe that we need sensible malpractice reform, and were the bill before us today similar to Wisconsin’s system, I would be proud to support it.

Unfortunately, H.R. 4280 is vastly different from Wisconsin law and goes too far in de-

fending negligence and not far enough in protecting patients. The legislation goes beyond medical malpractice law by including provisions regarding pharmaceutical and medical devices and completely exempts from liability medical device makers and distributors as well as pharmaceutical companies, as long as the product complies with FDA standards. These provisions would have no effect on medical malpractice insurance rates. Instead, they would leave victims with little recourse and render them unable to hold pharmaceutical companies and the makers of defective medical products accountable for faulty or unsafe products.

Another problem with H.R. 4280 is that it overrides some State laws. While the bill would not override Wisconsin’s own cap on non-economic damages, it would supersede our State laws regarding statute of limitations, attorney’s fees, and the criteria for punitive damages. This bill is a one-size-fits-all solution that is not right for Wisconsin.

The successful components of Wisconsin’s medical malpractice laws could be the basis for a much better bill. Wisconsin law protects patients and keeps physicians in business. These laws are threatened, however, by the current proposal. Therefore, I oppose H.R. 4280 and ask my colleagues to defeat the bill, revisit the issue, and create a more sensible plan that will protect patients and help doctors.

Mrs. BIGGERT. Mr. Speaker, I rise today in strong support of H.R. 4280, the HEALTH Act.

My home State of Illinois is in the midst of a crisis. Will County, part of which I represent, no longer has any practicing neurosurgeons. A recent survey found that 11 percent of OB/GYNs no longer practice obstetrics in Illinois. And more than half of OB/GYNs in the State are considering dropping their obstetrics practice entirely in the next two years due to medical liability concerns.

Women and children are the first to suffer in a crisis like this. As a mother and a grandmother, I don’t want to see pregnant women driving to another State because they can’t find an OB-GYN in their own area. I don’t want to see injured children transported miles away from their homes because there are no pediatric neurosurgeons left to treat head injuries. And I don’t want to see health insurance premiums climb so high that employers can no longer afford to provide benefits to their workers. We need reform and we need it now.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of H.R. 4280. Health care costs have been increasing dramatically over the past decade, while insurance has become prohibitively expensive for over 40 million Americans.

There are a number of factors which have contributed to the skyrocketing cost of health care, and the costs associated with medical malpractice are one factor.

This Country’s tort system encourages litigation and large awards in medical malpractice suits, which has led to high malpractice insurance rates and increased health care costs through the practice of defensive medicine.

Last year, my state of Texas enacted reforms of our medical malpractice system in order to avert a growing health crisis in the Texas health-care system. Too many lawsuits against health-care providers were driving up the cost of practicing medicine, resulting in reduced access to affordable health care.

There are early signs that the reforms enacted in Texas have helped improve access to

affordable health care. Essentially, every doctor in Texas is either paying less malpractice premiums today or avoiding scheduled increase in premiums.

The bill before us today contains the same proven reforms that will translate directly into increased access to affordable health care for all Americans.

Without Federal legislation, the exodus of physicians from the practice of medicine will continue, especially in high-risk specialties, and patients across the country will find it increasingly difficult to obtain affordable health care.

In rural areas, we are particularly sensitive to the impact malpractice insurance costs have in discouraging physicians from locating in rural communities, leaving residents without health care.

Here in Washington, if an obstetrician decides to stop delivering babies because the malpractice insurance costs are too great, the yellow pages will still list hundreds of other choices of physician care for expectant parents. In rural communities, the same physician decision may well mean that young couples must entirely uproot and relocate to urban centers just so they can have a family.

The ultimate result of this legislation will be greater protections for quality health care, keeping precious health care dollars in direct care rather than feeding our legal system, and buttressing access to care for all Americans.

Medical malpractice reform isn't a magic bullet that will solve the problems of skyrocketing health care costs by itself, but it is one part of the larger process of reforming our health care system to control costs and improve access to health care.

Ms. HARMAN. Mr. Speaker, I am a strong supporter of California's Medical Injury Compensation Reform Act—or MICRA. With it, California charted a bold and creative course toward responsible medical malpractice reform.

In my view, the entire country would do well to follow California's lead, and it makes sense to have Federal legislation on the subject. But this particular bill includes the very same flaws contained in legislation I opposed last year—and I cannot support it.

H.R. 4280 is overly broad, and the cap on punitive and noneconomic awards is not indexed and does not reflect its current value.

While H.R. 4280 adopts the structure of MICRA, it is weighed down by restrictions on certain causes of action against HMOs, nursing homes, and insurance companies—areas in which California has enacted significant protections for patients. And the \$250,000 cap on punitive and noneconomic awards must be adjusted upward.

In the past, I voted for other medical liability legislation. I did so with the hope and expectation that improvements would be made in conference with the Senate to narrow its egregious provisions or that, in re-introducing the bill, these changes would be made.

Mr. Speaker, once again the closed process by which we are considering medical malpractice reform belies any desire by the majority to make the improvements I and many others believe are necessary.

As the daughter and sister of medical doctors, I understand the chilling affect unlimited medical liability awards have on the practice of medicine.

But I cannot support H.R. 4280 in its present form, and I urge the leadership to

postpone a vote on this legislation to open up what has thus far been a closed process and incorporate the ideas of members like myself who support common-sense medical liability reform.

Medical professionals should be able to practice in a climate of certainty, and patients should be charged reasonable rates for quality care. This is what I support for every community in the country. This is not what H.R. 4280, in its present form, delivers.

Mr. DINGELL. Mr. Speaker, what we are witnessing today is a sorry spectacle. We are voting on the same bill the House already voted on a little over a year ago. The one difference is that there is a new bill number. And, in those 14 months that have passed, our Republican colleagues have not changed one line in their bill to respond to the problems of increasing insurance costs to the doctors while protecting injured patients.

Instead, they are sticking with the same legislation, legislation they know will not pass the Senate. A bill they know will trample on the rights of legitimate patients, and will provide unprecedented protections to HMOs, the real beneficiaries of this legislation. This legislation is the exact opposite of the Patients' Bill of Rights, which would have provided real protections to doctors and patients alike in the struggle against cookie-cutter medicine foisted upon them by HMOs, if the Republicans had not successfully defeated it.

Let's be clear, this Republican bill does nothing to end frivolous lawsuits, just responsible ones. The bill limits awards for honest claims. It imposes new hurdles on aggrieved patients. And the bill does nothing to address the real problem—skyrocketing insurance premiums sending profits directly into the coffers of those companies.

I would like to point out that this bill is brought up during "Cover the Uninsured Week." To say that shielding HMOs from lawsuits will help cover the uninsured is a huge stretch for even the most vivid imagination.

If the Republican leadership was really interested in helping those without healthcare insurance, they would take up legislation like the bills democrats introduced today—the FamilyCare Act and the Medicare Early Buy-in—and build upon existing successful insurance programs to give families dependable, affordable coverage. And they would take up the Small Business Health Insurance Promotion Act which targets small businesses with real subsidies to purchase solid insurance products.

Democratic proposals take us forward, providing meaningful coverage without trampling the rights of consumers, eroding protections, or causing millions to lose their existing coverage. The Republican bill, and the other bills we will see this week, pay lip service to helping consumers, while richly rewarding the health insurance company allies.

Mr. SANDLIN. Mr. Speaker, I rise today just as I did almost exactly 14 months ago in strong opposition to the so-called HEALTH Act. Of course, today, we are spending the valuable time and limited resources of the American people debating the HEALTH Act of 2004, which, ironically, is precisely the same—virtually word-for-word—as the HEALTH Act of 2003, legislation this House already passed.

Mr. Speaker, it is as if the leadership of this House is being guided by the wisdom of that great American philosopher, Yogi Berra, who

once said, "It's déjà vu all over again." Apparently, the Republican leadership of the House is at a loss as to how to fix the very real problems our nation is facing, so we find ourselves here in the People's House deliberating legislation that we have already considered and passed.

I don't know about the rest of the Members of this House, but I am pretty confident that my constituents in East Texas would consider our action on this flawed legislation to be a profound waste of time and money even in the best of times.

However, Mr. Speaker, these are not the best of times for our Nation. The fact is the United States is facing difficult times at home and abroad. Today, as a Nation, we have 135,000 military personnel on the ground in Iraq fighting a shadowy and lethal insurgency and struggling to bring stability to a troubled part of the globe. The United States remains in serious danger of terrorist attacks at home with vulnerabilities in our ports and other infrastructure in desperate need of improved security. Many of our first responders—the very front line of defense for our hometowns—lack interoperable communications and other resources critical to their success.

Mr. Speaker, today, almost 9 million Americans are unemployed, including almost 3 million manufacturing jobs that have been lost during the past three years. Our Nation has accumulated a national debt of over \$7 trillion—more and more of which is owned to foreign nations, including China. Despite our burgeoning debt, the House Republican leadership refuses even to acknowledge a problem, refuses to adopt sensible "pay-as-you-go" rules that recognize the very real cost of both spending increases and tax cuts, and insists on budgets with larger and larger deficits, including a deficit in excess of \$360 billion in FY 2005 alone.

Mr. Speaker, as we complete our work during "Cover the Uninsured Week," almost 44 million Americans—15 percent of all Americans—have no health insurance. That number includes almost 8 million children. Almost 44 million Americans have no health insurance, despite the fact that the vast majority of them have full-time jobs.

So, Mr. Speaker, we have a health care crisis in this country that demands a solution. Nevertheless, to paraphrase President Reagan, "here we go again." Instead of working on real solutions to cover the uninsured and to solve the many other very real and immediate problems the country faces, today, we are spending the People's time and money to consider again legislation we have already passed.

Mr. Speaker, our nation's health care providers—our doctors, our nurses, our hospitals and nursing homes—are confronting skyrocketing medical malpractice insurance premiums. They need relief now. What they don't need is the warmed over illusory promise of relief that the HEALTH Act represents.

The HEALTH Act will not provide the relief American physicians, hospitals and other health care providers need. It didn't do anything to reduce escalating medical liability insurance premiums when we passed it last March; legislation like it has not done anything to reduce premiums in the many states that already have enacted damage caps; and it will not magically result in reduced premiums if it passes the House again today.

The simple fact is that claims from the Republican leadership that limiting liability for medical negligence will cure the healthcare cost crisis are without merit. Focusing solely on limiting malpractice liability, without insurance reform, does nothing to reduce the ever increasing costs of medical malpractice insurance. Damage caps such as those in H.R. 4280 do accomplish one thing: they boost insurers' profits. With damage caps, malpractice insurers win at the expense of physicians, nurses, hospitals and other health care providers.

Mr. Speaker, last year, after we last considered the HEALTH Act, my home state of Texas enacted comprehensive tort "reform" legislation strikingly similar to the HEALTH Act we considered and passed in March 2003 and that we consider again today. During the long debate on that legislation, proponents of the damage cap legislation repeatedly assured opponents that imposition of liability limitations would lead to dramatic medical liability insurance premium decreases.

Not surprisingly, however, the imposition of damage caps did not have the predicted effect. To the contrary, all but one medical malpractice insurance carriers in Texas proposed increases in physician premiums. Consequently, malpractice insurance premiums for physicians are reported to have risen an average of 12 percent statewide despite the damage caps. For Texas hospitals and nursing homes, the news was even worse—an average proposed increase of 20 percent. Moreover, the only carrier reported to offer reduced premiums provided a rate reduction that fell far short of even recapturing the dramatic premium increases it imposed on physicians during the past three years.

In Texas, as in other states with caps, the evidence does not support the rhetoric; those who suggest the HEALTH Act or its ilk as a panacea simply fail to make their case. Clearly, old line thinking and the "reform" embodied in the HEALTH Act will not cure what ails the system and will not reduce premiums.

Mr. Speaker, 14 months ago, I stood on the floor of this House and called on my colleagues to stand up for the doctors and stand up for the hospitals. Because the House Republican leadership has seen fit to conduct debate on that same legislation, I suppose I am on solid ground reiterating what I said then.

Mr. Speaker, malpractice premiums are choking America's physicians, and H.R. 4280 is nothing but a sham because H.R. 4280 does not mention one time, from front to back, soup to nuts, does not even mention malpractice premiums. We need to do something about those premiums for the doctors. We need to do it now. We need to do it today. H.R. 4280 will not do it.

And how about frivolous lawsuits? Frivolous lawsuits need to be stopped. If a suit is filed with no basis in law or in fact, it should be dismissed at the cost of the plaintiff, and he plaintiff should be sanctioned. But what does H.R. 4280 say about frivolous lawsuits? It does not say one thing. That is a shame. That is outrageous.

We are only talking about benefits for insurance companies. We are talking about caps. The only people protected are insurance carriers. The only people celebrating today are executives in tall buildings owned by insurance companies.

H.R. 4280 is not good for doctors; it is not good for hospitals; it is not good for patients.

Let us stand up for them. Let us do the right thing.

Mr. Speaker, the HEALTH Act was not progress in March 2003, and it's not progress now.

Apparently, the House Republican leadership wants to prove that Yogi Berra was wrong when he said, "The future ain't what it used to be." In the U.S. House of Representatives, the future appears to be exactly what it used to be. And that's a real shame and a tragic disservice to the People who sent us to this great House.

I urge my colleagues to vote "no" on H.R. 4280.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SWEENEY). All time for debate has expired.

Pursuant to House Resolution 638, the bill is considered read for amendment and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Conyers moves to recommit the bill H.R. 4280 to the Committee on the Judiciary and the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medical Malpractice and Insurance Reform Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

Sec. 101. Statute of limitations.

Sec. 102. Health care specialist affidavit.

Sec. 103. Sanctions for frivolous actions and pleadings.

Sec. 104. Mandatory mediation.

Sec. 105. Limitation on punitive damages.

Sec. 106. Use of savings to benefit providers through reduced premiums.

Sec. 107. Definitions.

Sec. 108. Applicability.

TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

Sec. 201. Establishment.

Sec. 202. Duties.

Sec. 203. Report.

Sec. 204. Membership.

Sec. 205. Director and staff; experts and consultants.

Sec. 206. Powers.

Sec. 207. Authorization of appropriations.

TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

SEC. 101. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—A medical malpractice action shall be barred unless the complaint

is filed within 3 years after the right of action accrues.

(b) ACCRUAL.—A right of action referred to in subsection (a) accrues upon the last to occur of the following dates:

(1) The date of the injury.

(2) The date on which the claimant discovers, or through the use of reasonable diligence should have discovered, the injury.

(3) The date on which the claimant becomes 18 years of age.

(c) APPLICABILITY.—This section shall apply to any injury occurring after the date of the enactment of this Act.

SEC. 102. HEALTH CARE SPECIALIST AFFIDAVIT.

(a) REQUIRING SUBMISSION WITH COMPLAINT.—No medical malpractice action may be brought by any individual unless, at the time the individual brings the action (except as provided in subsection (b)(1)), it is accompanied by the affidavit of a qualified specialist that includes the specialist's statement of belief that, based on a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(b) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice action without submitting an affidavit described in such subsection if, as of the time the individual brings the action, the individual has been unable to obtain adequate medical records or other information necessary to prepare the affidavit.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action for which paragraph (1) applies, the action shall be dismissed unless the individual (or the individual's attorney) submits the affidavit described in subsection (a) not later than 90 days after obtaining the information described in such paragraph.

(c) QUALIFIED SPECIALIST DEFINED.—In subsection (a), a "qualified specialist" means, with respect to a medical malpractice action, a health care professional who is reasonably believed by the individual bringing the action (or the individual's attorney)—

(1) to be knowledgeable in the relevant issues involved in the action;

(2) to practice (or to have practiced) or to teach (or to have taught) in the same area of health care or medicine that is at issue in the action; and

(3) in the case of an action against a physician, to be board certified in a specialty relating to that area of medicine.

(d) CONFIDENTIALITY OF SPECIALIST.—Upon a showing of good cause by a defendant, the court may ascertain the identity of a specialist referred to in subsection (a) while preserving confidentiality.

SEC. 103. SANCTIONS FOR FRIVOLOUS ACTIONS AND PLEADINGS.

(a) SIGNATURE REQUIRED.—Every pleading, written motion, and other paper in any medical malpractice action shall be signed by at least 1 attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) CERTIFICATE OF MERIT.—(1) A medical malpractice action shall be dismissed unless the attorney or unrepresented party presenting the complaint certifies that, to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

(A) it is not being presented for any improper purpose, such as to harass or to cause

unnecessary delay or needless increase in the cost of litigation;

(B) the claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

(2) By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are reasonable based on a lack of information or belief.

(c) **MANDATORY SANCTIONS.**—

(1) **FIRST VIOLATION.**—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated, the court shall find each attorney or party in violation in contempt of court and shall require the payment of costs and attorneys fees. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon the person in violation, or upon both such person and such person's attorney or client (as the case may be).

(2) **SECOND VIOLATION.**—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court and shall require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(3) **THIRD VIOLATION.**—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed more than one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court, refer each such attorney to one or more appropriate State bar associations for disciplinary proceedings, require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanc-

tions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

SEC. 104. MANDATORY MEDIATION.

(a) **IN GENERAL.**—In any medical malpractice action, before such action comes to trial, mediation shall be required. Such mediation shall be conducted by one or more mediators who are selected by agreement of the parties or, if the parties do not agree, who are qualified under applicable State law and selected by the court.

(b) **REQUIREMENTS.**—Mediation under subsection (a) shall be made available by a State subject to the following requirements:

(1) Participation in such mediation shall be in lieu of any alternative dispute resolution method required by any other law or by any contractual arrangement made by or on behalf of the parties before the commencement of the action.

(2) Each State shall disclose to residents of the State the availability and procedures for resolution of consumer grievances regarding the provision of (or failure to provide) health care services, including such mediation.

(3) Each State shall provide that such mediation may begin before or after, at the option of the claimant, the commencement of a medical malpractice action.

(4) The Attorney General, in consultation with the Secretary of Health and Human Services, shall, by regulation, develop requirements with respect to such mediation to ensure that it is carried out in a manner that—

(A) is affordable for the parties involved;

(B) encourages timely resolution of claims;

(C) encourages the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution.

(c) **FURTHER REDRESS AND ADMISSIBILITY.**—Any party dissatisfied with a determination reached with respect to a medical malpractice claim as a result of an alternative dispute resolution method applied under this section shall not be bound by such determination. The results of any alternative dispute resolution method applied under this section, and all statements, offers, and communications made during the application of such method, shall be inadmissible for purposes of adjudicating the claim.

SEC. 105. LIMITATION ON PUNITIVE DAMAGES.

(a) **IN GENERAL.**—Punitive damages may not be awarded in a medical malpractice action, except upon proof of—

(1) gross negligence;

(2) reckless indifference to life; or

(3) an intentional act, such as voluntary intoxication or impairment by a physician, sexual abuse or misconduct, assault and battery, or falsification of records.

(b) **ALLOCATION.**—In such a case, the award of punitive damages shall be allocated 50 percent to the claimant and 50 percent to a trustee appointed by the court, to be used by such trustee in the manner specified in subsection (d). The court shall appoint the Secretary of Health and Human Services as such trustee.

(c) **EXCEPTION.**—This section shall not apply with respect to an action if the applicable State law provides (or has been construed to provide) for damages in such an action that are only punitive or exemplary in nature.

(d) **TRUST FUND.**—

(1) **IN GENERAL.**—This subsection applies to amounts allocated to the Secretary of Health and Human Services as trustee under subsection (b).

(2) **AVAILABILITY.**—Such amounts shall, to the extent provided in advance in appropria-

tions Acts, be available for use by the Secretary of Health and Human Services under paragraph (3) and shall remain so available until expended.

(3) **USE.**—

(A) Subject to subparagraph (B), the Secretary of Health and Human Services, acting through the Director of the Agency for Healthcare Research and Quality, shall use the amounts to which this subsection applies for activities to reduce medical errors and improve patient safety.

(B) The Secretary of Health and Human Services may not use any part of such amounts to establish or maintain any system that requires mandatory reporting of medical errors.

(C) The Secretary of Health and Human Services shall promulgate regulations to establish programs and procedures for carrying out this paragraph.

(4) **INVESTMENT.**—

(A) The Secretary of Health and Human Services shall invest the amounts to which this subsection applies in such amounts as such Secretary determines are not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(B) Any obligation acquired by the Secretary in such Secretary's capacity as trustee of such amounts may be sold by the Secretary at the market price.

SEC. 106. USE OF SAVINGS TO BENEFIT PROVIDERS THROUGH REDUCED PREMIUMS.

(a) **IN GENERAL.**—Notwithstanding any other provision of this title, a provision of this title may be applied by a court to the benefit of a party insured by a medical malpractice liability insurance company only if the court—

(1) determines the amount of savings realized by the company as a result; and

(2) requires the company to pay an amount equal to the amount of such savings to a trustee appointed by the court, to be distributed by such trustee in a manner that has the effect of benefiting health care providers insured by the company through reduced premiums for medical malpractice liability insurance.

(b) **DEFINITION.**—For purposes of this section, the term "medical malpractice liability insurance company" means an entity in the business of providing an insurance policy under which the entity makes payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim.

SEC. 107. DEFINITIONS.

In this title, the following definitions apply:

(1) **ALTERNATIVE DISPUTE RESOLUTION METHOD.**—The term "alternative dispute resolution method" means a method that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice actions.

(2) **CLAIMANT.**—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) **HEALTH CARE PROFESSIONAL.**—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) **HEALTH CARE PROVIDER.**—The term “health care provider” means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) **INJURY.**—The term “injury” means any illness, disease, or other harm that is the subject of a medical malpractice action or a medical malpractice claim.

(6) **MANDATORY.**—The term “mandatory” means required to be used by the parties to attempt to resolve a medical malpractice claim notwithstanding any other provision of an agreement, State law, or Federal law.

(7) **MEDIATION.**—The term “mediation” means a settlement process coordinated by a neutral third party and without the ultimate rendering of a formal opinion as to factual or legal findings.

(8) **MEDICAL MALPRACTICE ACTION.**—The term “medical malpractice action” means an action in any State or Federal court against a physician, or other health professional, who is licensed in accordance with the requirements of the State involved that—

(A) arises under the law of the State involved;

(B) alleges the failure of such physician or other health professional to adhere to the relevant professional standard of care for the service and specialty involved;

(C) alleges death or injury proximately caused by such failure; and

(D) seeks monetary damages, whether compensatory or punitive, as relief for such death or injury.

(9) **MEDICAL MALPRACTICE CLAIM.**—The term “medical malpractice claim” means a claim forming the basis of a medical malpractice action.

(10) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and any other territory or possession of the United States.

SEC. 108. APPLICABILITY.

(a) **IN GENERAL.**—Except as provided in section 104, this title shall apply with respect to any medical malpractice action brought on or after the date of the enactment of this Act.

(b) **FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.**—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice actions on the basis of section 1331 or 1337 of title 28, United States Code.

TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

SEC. 201. ESTABLISHMENT.

(a) **FINDINGS.**—The Congress finds as follows:

(1) The sudden rise in medical malpractice premiums in regions of the United States can threaten patient access to doctors and other health providers.

(2) Improving patient access to doctors and other health providers is a national priority.

(b) **ESTABLISHMENT.**—There is established a national commission to be known as the “Independent Advisory Commission on Medical Malpractice Insurance” (in this title referred to as the “Commission”).

SEC. 202. DUTIES.

(a) **IN GENERAL.**—(1) The Commission shall evaluate the effectiveness of health care liability reforms in achieving the purposes specified in paragraph (2) in comparison to the effectiveness of other legislative proposals to achieve the same purposes.

(2) The purposes referred to in paragraph (1) are to—

(A) improve the availability of health care services;

(B) reduce the incidence of “defensive medicine”;

(C) lower the cost of health care liability insurance;

(D) ensure that persons with meritorious health care injury claims receive fair and adequate compensation; and

(E) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

(b) **CONSIDERATIONS.**—In formulating proposals on the effectiveness of health care liability reform in comparison to these alternatives, the Commission shall, at a minimum, consider the following:

(1) Alternatives to the current medical malpractice tort system that would ensure adequate compensation for patients, preserve access to providers, and improve health care safety and quality.

(2) Modifications of, and alternatives to, the existing State and Federal regulations and oversight that affect, or could affect, medical malpractice lines of insurance.

(3) State and Federal reforms that would distribute the risk of medical malpractice more equitably among health care providers.

(4) State and Federal reforms that would more evenly distribute the risk of medical malpractice across various categories of providers.

(5) The effect of a Federal medical malpractice reinsurance program administered by the Department of Health and Human Services.

(6) The effect of a Federal medical malpractice insurance program, administered by the Department of Health and Human Services, to provide medical malpractice insurance based on customary coverage terms and liability amounts in States where such insurance is unavailable or is unavailable at reasonable and customary terms.

(7) Programs that would reduce medical errors and increase patient safety, including new innovations in technology and management.

(8) The effect of State policies under which—

(A) any health care professional licensed by the State has standing in any State administrative proceeding to challenge a proposed rate increase in medical malpractice insurance; and

(B) a provider of medical malpractice insurance in the State may not implement a rate increase in such insurance unless the provider, at minimum, first submits to the appropriate State agency a description of the rate increase and a substantial justification for the rate increase.

(9) The effect of reforming antitrust law to prohibit anticompetitive activities by medical malpractice insurers.

(10) Programs to facilitate price comparison of medical malpractice insurance by enabling any health care provider to obtain a quote from each medical malpractice insurer to write the type of coverage sought by the provider.

(11) The effect of providing Federal grants for geographic areas that have a shortage of one or more types of health providers as a result of the providers making the decision to cease or curtail providing health services in the geographic areas because of the costs of maintaining malpractice insurance.

SEC. 203. REPORT.

(a) **IN GENERAL.**—The Commission shall transmit to Congress—

(1) an initial report not later than 180 days after the date of the initial meeting of the Commission; and

(2) a report not less than each year thereafter until the Commission terminates.

(b) **CONTENTS.**—Each report transmitted under this section shall contain a detailed statement of the findings and conclusions of the Commission.

(c) **VOTING AND REPORTING REQUIREMENTS.**—With respect to each proposal or recommendation contained in the report submitted under subsection (a), each member of the Commission shall vote on the proposal or recommendation, and the Commission shall include, by member, the results of that vote in the report.

SEC. 204. MEMBERSHIP.

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 15 members appointed by the Comptroller General of the United States.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, medical malpractice insurance, insurance regulation, health care law, health care policy, health care access, allopathic and osteopathic physicians, other providers of health care services, patient advocacy, and other related fields, who provide a mix of different professionals, broad geographic representations, and a balance between urban and rural representatives.

(2) **INCLUSION.**—The membership of the Commission shall include the following:

(A) Two individuals with expertise in health finance and economics, including one with expertise in consumer protections in the area of health finance and economics.

(B) Two individuals with expertise in medical malpractice insurance, representing both commercial insurance carriers and physician-sponsored insurance carriers.

(C) An individual with expertise in State insurance regulation and State insurance markets.

(D) An individual representing physicians.

(E) An individual with expertise in issues affecting hospitals, nursing homes, nurses, and other providers.

(F) Two individuals representing patient interests.

(G) Two individuals with expertise in health care law or health care policy.

(H) An individual with expertise in representing patients in malpractice lawsuits.

(3) **MAJORITY.**—The total number of individuals who are directly involved with the provision or management of malpractice insurance, representing physicians or other providers, or representing physicians or other providers in malpractice lawsuits, shall not constitute a majority of the membership of the Commission.

(4) **ETHICAL DISCLOSURE.**—The Comptroller General of the United States shall establish a system for public disclosure by members of the Commission of financial or other potential conflicts of interest relating to such members.

(c) **TERMS.**—

(1) **IN GENERAL.**—The terms of the members of the Commission shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

(2) **VACANCIES.**—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) **COMPENSATION.**—Members of the Commission shall be compensated in accordance

with section 1805(c)(4) of the Social Security Act.

(4) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate at the time of appointment a member of the Commission as Chairman and a member as Vice Chairman. In the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member's term.

(5) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairman.

(B) INITIAL MEETING.—The Commission shall hold an initial meeting not later than the date that is 1 year after the date of the enactment of this title, or the date that is 3 months after the appointment of all the members of the Commission, whichever occurs earlier.

SEC. 205. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of the Commission, the Commission may—

(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties;

(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

(4) make advance, progress, and other payments which relate to the work of the Commission;

(5) provide transportation and subsistence for persons serving without compensation; and

(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

SEC. 206. POWERS.

(a) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

(b) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

(1) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

(2) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

(3) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

(c) ACCESS OF GENERAL ACCOUNTING OFFICE TO INFORMATION.—The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and non-proprietary data of the Commission, immediately upon request.

(d) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General of the United States.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this title for each of fiscal years 2004 through 2008.

(b) REQUESTS FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

Amend the title so as to read: "A bill to limit frivolous medical malpractice lawsuits, to reform the medical malpractice insurance business in order to reduce the cost of medical malpractice insurance, to enhance patient access to medical care, and for other purposes."

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes in support of his motion.

Mr. CONYERS. Mr. Speaker, this motion is being offered by me and the dean of the Congress, the gentleman from Michigan (Mr. DINGELL). We are offering this motion to recommit to attack the heart of the medical malpractice crisis. Rather than limiting the rights of legitimate malpractice victims, as the bill before us would do, our motion would logically and directly address the problems of frivolous lawsuits and insurance industry abuses.

Title I addresses the problem of frivolous lawsuits. It would require that both an attorney and a health care specialist submit an affidavit that the claim is warranted before malpractice action can be brought and imposes strict sanctions for attorneys who make frivolous pleadings. But it provides also for mandatory mediation, a uniform statute of limitations, and a narrowing of the requirements for punitive damage claims. Finally, insurers would be required to dedicate at least 50 percent of any savings resulting from the litigation reforms to reduce the premiums that medical professionals pay.

Unlike the majority's bill before us, this motion is limited to licensed physicians and health professionals for malpractice cases only. It does not include lawsuits against HMOs, insurance companies, nursing homes, and drug and device manufacturers.

The second part of this motion to recommit, title II, establishes a national commission to evaluate the rising insurance premiums and the causes for why that is occurring. The commission would consider, among other things, whether the McCarran-Ferguson Antitrust exemption for medical malpractice insurers should be reconsidered and possibly repealed and study the potential benefits of providing a Federal medical malpractice insurance program where insurance was unavailable or unaffordable.

This same commission, 15-person commission appointed by the Comp-

troller General, would also consider government-sponsored grant programs to give direct assistance to areas facing a shortage of health care providers, as well as to send physicians to trauma centers that are in danger of closing because of rising premiums. Finally, it would consider alternative means of reducing medical errors and increasing patient safety.

So support this motion to recommit. It is good policy. It changes the whole line of unbelievably reactionary legislation that has come out of this House on this subject before now. It is time for a change. We want to limit frivolous lawsuits, and this would give us an opportunity to examine the real causes of the medical malpractice insurance crisis.

The SPEAKER pro tempore. Does the gentleman from Wisconsin (Mr. SENSENBRENNER) rise in opposition to the motion?

Mr. SENSENBRENNER. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, yes, it is time for a change, and it is time for a real change. This motion to recommit does not provide a real change, and it should be defeated. It should be defeated because it contains zero legal protections for doctors beyond current law.

Legal reforms are essential to solving the current crisis in the medical professional liability insurance area and increasing access of health care to all. Here is what the president of the National Association of Insurance Commissioners said: "To date, insurance regulators have not seen evidence that suggests medical malpractice insurers have engaged or are engaging in price-fixing, bid-rigging, or market allocation. The evidence points to rising loss costs and defense costs associated with litigation as the principal drivers of medical malpractice rates."

The underlying bill, and not the motion to recommit, is the only proven legislative solution to the current crisis. According to the CBO, under H.R. 4280 "premiums for medical malpractice insurance ultimately would be an average of 25 to 30 percent below what they would be under current law."

The motion to recommit, on the other hand, besides including zero legal protections for doctors beyond current law, sets up an advisory commission to study a problem that is already patently obvious to the most casual observer and to report back sometime in the future when even more patients will have lost access to essential medical care.

Opponents of the bill claim there is no enforcement mechanism to make sure that medical professional liability rates go down. That is completely false. An enforcement mechanism already exists throughout all 50 States, namely, State insurance commissioners who are required by State law

to turn down rates that are excessive, unfairly discriminatory, or otherwise unjustified. On the other hand, the motion to recommit creates a system of price controls linked to savings that without the legal protections in this bill will be nonexistent. Without legal reforms, there will be no cost savings, and the motion to recommit contains zero legal protections beyond the current law.

Along with creating a commission to further study a problem that is obvious, the motion simply throws more Federal money at it. H.R. 4280, on the other hand, contains solid legal reforms that have been proven successful over 28 years in California and will save billions of dollars in taxpayers' funds, according to the CBO. The choice is clear: oppose the motion to recommit, support H.R. 4280, and let us make sure that doctors are there to care for the 287 million Americans.

Mr. Speaker, I urge defeat of this motion and passage of the bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes, if ordered, on passage of H.R. 4280, adoption of H. Con. Res. 378, and adoption of H. Con. Res. 409.

The vote was taken by electronic device, and there were—yeas 193, nays 231, not voting 9, as follows:

[Roll No. 165]

YEAS—193

Abercrombie	Chandler	Evans
Ackerman	Clay	Farr
Alexander	Clyburn	Fattah
Allen	Conyers	Filner
Andrews	Cooper	Flake
Baca	Costello	Ford
Baird	Crowley	Frank (MA)
Baldwin	Cummings	Frost
Ballance	Davis (AL)	Gephardt
Becerra	Davis (CA)	Gonzalez
Bell	Davis (IL)	Gordon
Berman	Davis (TN)	Green (TX)
Berry	DeFazio	Grijalva
Bishop (GA)	DeGette	Gutierrez
Bishop (NY)	Delahunt	Harman
Blumenauer	DeLauro	Hastings (FL)
Boswell	Deutsch	Hill
Boucher	Dicks	Hinchee
Brady (PA)	Dingell	Hinojosa
Brown (OH)	Doggett	Hoeffel
Brown, Corrine	Dooley (CA)	Holt
Capps	Doyle	Honda
Capuano	Duncan	Hooley (OR)
Cardin	Edwards	Hoyer
Cardoza	Emanuel	Inslee
Carson (IN)	Engel	Israel
Carson (OK)	Eshoo	Jackson (IL)
Case	Etheridge	

Jackson-Lee (TX)	Meeks (NY)	Sandlin
Jefferson	Menendez	Schakowsky
John	Michaud	Schiff
Johnson (IL)	Millender-McDonald	Scott (VA)
Johnson, E. B.	Miller (NC)	Serrano
Jones (OH)	Miller, George	Sherman
Kanjorski	Moore	Skelton
Kaptur	Moran (VA)	Slaughter
Kennedy (RI)	Nader	Smith (WA)
Kildee	Napolitano	Snyder
Kilpatrick	Neal (MA)	Solis
Kind	Oberstar	Spratt
Klecizka	Obey	Stark
Kucinich	Oliver	Stenholm
Lampson	Ortiz	Strickland
Langevin	Owens	Stupak
Larsen (WA)	Pallone	Tanner
Lee	Pascrell	Tauscher
Levin	Pastor	Thompson (CA)
Lewis (GA)	Payne	Thompson (MS)
Lipinski	Pelosi	Tierney
Lofgren	Pomeroy	Towns
Lynch	Price (NC)	Turner (TX)
Majette	Rahall	Udall (CO)
Maloney	Rangel	Udall (NM)
Markey	Rodriguez	Van Hollen
Marshall	Ross	Velázquez
Matsui	Rothman	Visclosky
McCarthy (MO)	Roybal-Allard	Waters
McCarthy (NY)	Ruppersberger	Watson
McCollum	Rush	Watt
McDermott	Ryan (OH)	Waxman
McGovern	Sabo	Weiner
McIntyre	Sánchez, Linda T.	Wexler
McNulty	Sanchez, Loretta	Woolsey
Meehan	Sanders	Wu
Meek (FL)		Wynn

NAYS—231

Aderholt	Dreier	Kolbe
Akin	Dunn	LaHood
Bachus	Ehlers	Larson (CT)
Baker	Emerson	Latham
Ballenger	English	LaTourette
Barrett (SC)	Everett	Leach
Bartlett (MD)	Feeney	Lewis (CA)
Barton (TX)	Ferguson	Lewis (KY)
Bass	Foley	Linder
Beauprez	Forbes	LoBiondo
Bereuter	Fossella	Lucas (KY)
Berkley	Franks (AZ)	Lucas (OK)
Biggert	Frelinghuysen	Manzullo
Bilirakis	Gallegly	Matheson
Bishop (UT)	Garrett (NJ)	McCotter
Blackburn	Gerlach	McCrery
Blunt	Gibbons	McHugh
Boehlert	Gilchrest	McInnis
Boehner	Gillmor	McKeon
Bonilla	Gingrey	Mica
Bonner	Goode	Miller (FL)
Bono	Goodlatte	Miller (MI)
Boozman	Goss	Miller, Gary
Boyd	Granger	Mollohan
Bradley (NH)	Graves	Moran (KS)
Brady (TX)	Green (WI)	Murphy
Brown (SC)	Greenwood	Murtha
Burgess	Gutknecht	Musgrave
Burns	Hall	Myrick
Burr	Harris	Nethercutt
Burton (IN)	Hart	Neugebauer
Buyer	Hastings (WA)	Ney
Calvert	Hayes	Northup
Camp	Hayworth	Norwood
Cannon	Hefley	Nunes
Cantor	Hensarling	Nussle
Capito	Herger	Osborne
Carter	Hobson	Ose
Castle	Hoekstra	Otter
Chabot	Holden	Oxley
Chocoma	Hostettler	Paul
Coble	Houghton	Pearce
Cole	Hulshof	Pence
Collins	Hunter	Peterson (MN)
Cox	Isakson	Peterson (PA)
Cramer	Issa	Petri
Crane	Jenkins	Pickering
Crenshaw	Johnson (CT)	Pitts
Cubin	Johnson, Sam	Platts
Culberson	Jones (NC)	Pommo
Cunningham	Keller	Porter
Davis (FL)	Kelly	Portman
Davis, Jo Ann	Kennedy (MN)	Pryce (OH)
Davis, Tom	King (IA)	Putnam
Deal (GA)	King (NY)	Quinn
DeLay	Kingston	Radanovich
Diaz-Balart, L.	Kirk	Ramstad
Diaz-Balart, M.	Kline	Regula
Doolittle	Knollenberg	Rehberg

Renzi	Shimkus	Tiberi
Reynolds	Shuster	Toomey
Rogers (AL)	Simmons	Turner (OH)
Rogers (KY)	Simpson	Upton
Rogers (MI)	Smith (MI)	Vitter
Rohrabacher	Smith (NJ)	Walden (OR)
Ros-Lehtinen	Smith (TX)	Walsh
Royce	Souder	Wamp
Ryan (WI)	Stearns	Weldon (FL)
Ryun (KS)	Sullivan	Weldon (PA)
Saxton	Sweeney	Weller
Schrock	Tancred	Whitfield
Sensenbrenner	Taylor (MS)	Wicker
Sessions	Taylor (NC)	Wilson (NM)
Shadegg	Terry	Wilson (SC)
Shaw	Thomas	Wolf
Shays	Thornberry	Young (AK)
Sherwood	Tiahrt	Young (FL)

NOT VOTING—9

Brown-Waite,	Istook	Scott (GA)
Ginny	Lantos	Tauzin
DeMint	Lowey	
Hyde	Reyes	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1748

Ms. McCOLLUM changed her vote from “nay” to “yea.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, on rollcall No. 165, I was unavoidably detained. Had I been present, I would have voted “no.”

The SPEAKER pro tempore (Mr. SWEENEY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GREENWOOD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 229, noes 197, not voting 7, as follows:

[Roll No. 166]

AYES—229

Aderholt	Burgess	DeLay
Akin	Burns	Diaz-Balart, M.
Bachus	Burr	Dooley (CA)
Baker	Burton (IN)	Dreier
Ballenger	Buyer	Duncan
Barrett (SC)	Calvert	Dunn
Bartlett (MD)	Camp	Ehlers
Barton (TX)	Cannon	Emerson
Bass	Cantor	English
Beauprez	Capito	Everett
Bereuter	Cardoza	Feeney
Biggert	Carter	Ferguson
Bilirakis	Castle	Foley
Bishop (UT)	Chabot	Forbes
Blackburn	Chocoma	Fossella
Blunt	Cole	Frank (MA)
Boehlert	Collins	Franks (AZ)
Boehner	Cox	Frelinghuysen
Bonilla	Cramer	Gallegly
Bonner	Crane	Garrett (NJ)
Bono	Crenshaw	Gerlach
Boozman	Cubin	Gibbons
Boyd	Culberson	Gilchrest
Bradley (NH)	Cunningham	Gillmor
Brady (TX)	Davis (TN)	Gingrey
Brown (SC)	Davis, Jo Ann	Goode
Brown-Waite,	Davis, Tom	Goodlatte
Ginny	Deal (GA)	Gordon

Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbenberg
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter

McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher

Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrook
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—197

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Coble
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks

Dingell
Doggett
Doolittle
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick

Kind
King (NY)
Klecza
Kucinich
Lampson
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lynch
Majette
Maloney
Markley
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-
McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascrell

Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabó
Sánchez, Linda
T.
Sanchez, Loretta
Sanders

Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skeltan
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thompson (CA)

Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—7

DeMint
Hyde
Lantos

Lowey
Reyes
Scott (GA)

Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1800

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H. CON. RES. 414, EXPRESSING SENSE OF CONGRESS THAT ALL AMERICANS OBSERVE THE 50TH ANNIVERSARY OF BROWN V. BOARD OF EDUCATION WITH A COMMITMENT TO CONTINUING AND BUILDING ON THE LEGACY OF BROWN

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider House Concurrent Resolution 414;

The concurrent resolution shall be considered as read for amendment; and the previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion or demand for a division of the question excepted: (1) 30 minutes of debate on the concurrent resolution equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

□ 1800

CALLING ON THE GOVERNMENT OF SOCIALIST REPUBLIC OF VIETNAM TO RELEASE FATHER THADDEUS NGUYEN VAN LY

The SPEAKER pro tempore (Mr. SWEENEY). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 378, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 378, as amended, on which the yeas and nays are ordered.

Without objection, the remaining two votes in this series will be 5-minute votes.

There was no objection.

The vote was taken by electronic device, and there were—yeas 424, nays 1, not voting 8, as follows:

[Roll No. 167]

YEAS—424

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggart
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper

Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva

Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klecza
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski

LoBiondo Pascrell Simpson
Lofgren Pastor Skelton
Lucas (KY) Payne Slaughter
Lucas (OK) Pearce Smith (MI)
Lynch Pelosi Smith (NJ)
Majette Pence Smith (TX)
Maloney Peterson (MN) Smith (WA)
Manzullo Peterson (PA) Snyder
Markey Petri Solis
Marshall Pickering Souder
Matheson Pitts Spratt
Matsui Platts Stark
McCarthy (MO) Pombo Stearns
McCarthy (NY) Pomeroy Stenholm
McCollum Porter Strickland
McCotter Portman Stupak
McCrery Price (NC) Sullivan
McDermott Pryce (OH) Sweeney
McGovern Putnam Tancredo
McHugh Quinn Tanner
McInnis Radanovich Tauscher
McIntyre Rahall Taylor (MS)
McKeon Ramstad Taylor (NC)
McNulty Rangel Terry
Meehan Regula Thomas
Meek (FL) Rehberg Thompson (CA)
Meeks (NY) Renzi Thompson (MS)
Menendez Reynolds Thornberry
Mica Rodriguez Tiahrt
Michaud Rogers (AL) Tiberi
Millender- Rogers (KY) Tierney
McDonald Rogers (MI) Toomey
Miller (FL) Rohrabacher Towns
Miller (MI) Ros-Lehtinen Turner (OH)
Miller (NC) Ross Turner (TX)
Miller, Gary Rothman Udall (NM)
Miller, George Roybal-Allard Udall (NM)
Mollohan Royce Upton
Moore Rumpersberger Van Hollen
Moran (KS) Rush Velázquez
Moran (VA) Ryan (OH) Visclosky
Murphy Ryan (WI) Vitter
Murtha Ryun (KS) Walden (OR)
Musgrave Sabo Walsh
Myrick Sánchez, Linda Wamp
Nadler T. Waters
Napolitano Sanchez, Loretta Watson
Neal (MA) Sanders Watt
Nethercutt Sandlin Waxman
Neugebauer Saxton Weiner
Ney Schakowsky Weldon (FL)
Northup Schiff Weldon (PA)
Norwood Schroek Weller
Nunes Scott (VA) Wexler
Nussle Sensenbrenner Whitfield
Oberstar Serrano Wicker
Obey Sessions Wilson (NM)
Olver Shadegg Wilson (SC)
Ortiz Shaw Wolf
Osborne Shays Woolsey
Ose Sherman Wu
Otter Sherwood Wynn
Owens Shimkus Young (AK)
Oxley Shuster Young (FL)
Pallone Simmons

NAYS—1

Paul

NOT VOTING—8

Abercrombie Lantos Scott (GA)
DeMint Lowey Tauzin
Hyde Reyes

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1809

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING THE VETERANS WHO SERVED DURING WORLD WAR II, THE AMERICANS WHO SUPPORTED THE WAR, AND CELEBRATING THE COMPLETION OF THE NATIONAL WORLD WAR II MEMORIAL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 409.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 409, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 168]

YEAS—422

Abercrombie Carson (OK) Flake
Ackerman Carter Foley
Aderholt Case Forbes
Akin Castle Ford
Alexander Chabot Fossella
Allen Chandler Frank (MA)
Andrews Chocola Franks (AZ)
Baca Clay Frelinghuysen
Bachus Clyburn Frost
Baird Coble Gallegly
Baker Cole Garrett (NJ)
Baldwin Collins Gephardt
Ballance Conyers Gerlach
Ballenger Cooper Gibbons
Barrett (SC) Costello Gilchrist
Bartlett (MD) Cox Gillmor
Barton (TX) Cramer Gingrey
Bass Crane Gonzalez
Beauprez Crenshaw Goode
Becerra Crowley Goodlatte
Bell Cubin Gordon
Bereuter Culberson Goss
Berkley Cummings Granger
Berman Cunningham Graves
Berry Davis (AL) Green (TX)
Biggert Davis (CA) Green (WI)
Bilirakis Davis (FL) Greenwood
Bishop (GA) Davis (IL) Grijalva
Bishop (NY) Davis (TN) Gutierrez
Bishop (UT) Davis, Jo Ann Gutknecht
Blackburn Davis, Tom Hall
Blumenauer Deal (GA) Harman
Blunt DeFazio Harris
Boehlert DeGette Hart
Boehner Delahunt Hastings (FL)
Bonilla DeLauro Hastings (WA)
Bonner DeLay Hayes
Bono Deutsch Hayworth
Boozman Diaz-Balart, L. Hefley
Boswell Diaz-Balart, M. Hensarling
Boucher Dicks Herger
Boyd Dingell Hill
Bradley (NH) Doggett Hinchey
Brady (PA) Dooley (CA) Hinojosa
Brady (TX) Doolittle Hobson
Brown (OH) Doyle Hoeffel
Brown (SC) Dreier Hoekstra
Brown, Corrine Duncan Holden
Brown-Waite, Dunn Holt
Ginny Edwards Honda
Burgess Ehlers Hooley (OR)
Burns Emanuel Hostettler
Burr Emerson Houghton
Burton (IN) Engel Hoyer
Buyer English Hulshof
Calvert Eshoo Hunter
Camp Etheridge Inslee
Cannon Evans Isakson
Capito Everett Israel
Capps Farr Issa
Capuano Fattah Istook
Cardin Feeney Jackson (IL)
Cardoza Ferguson Jackson-Lee
Carson (IN) Filner (TX)

Jefferson Miller, George
Jenkins Mollohan
John Moore
Johnson (CT) Moran (KS)
Johnson (IL) Moran (VA)
Johnson, E. B. Murphy
Johnson, Sam Murtha
Jones (NC) Musgrave
Jones (OH) Myrick
Kanjorski Nadler
Kaptur Napolitano
Keller Neal (MA)
Kelly Nethercutt
Kennedy (MN) Neugebauer
Kennedy (RI) Ney
Kildee Northup
Kilpatrick Norwood
Kind Nunes
King (IA) Nussle
King (NY) Oberstar
Kingston Obey
Kirk Oliver
Klecza Ortiz
Kline Osborne
Knollenberg Ose
Kolbe Owens
Kucinich Oxley
LaHood Pallone
Lampson Pascarell
Langevin Pastor
Larsen (WA) Paul
Larson (CT) Payne
Latham Pearce
LaTourette Pelosi
Leach Pence
Lee Peterson (MN)
Levin Peterson (PA)
Lewis (CA) Petri
Lewis (GA) Pickering
Lewis (KY) Pitts
Linder Platts
Lipinski Pombo
LoBiondo Pomeroy
Lofgren Porter
Lucas (KY) Portman
Lucas (OK) Price (NC)
Lynch Pryce (OH)
Majette Putnam
Maloney Quinn
Manzullo Radanovich
Markey Rahall
Marshall Ramstad
Matheson Rangel
Matsui Regula
McCarthy (MO) Rehberg
McCarthy (NY) Renzi
McCollum Reynolds
McCotter Rodriguez
McCrery Rogers (AL)
McDermott Rogers (KY)
McGovern Rogers (MI)
McHugh Rohrabacher
McInnis Ros-Lehtinen
McIntyre Ross
McKeon Rothman
McNulty Roybal-Allard
Meehan Royce
Meek (FL) Rumpersberger
Meeks (NY) Rush
Menendez Ryan (OH) Whitfield
Mica Ryan (WI) Wilson (NM)
Michaud Ryun (KS) Wilson (SC)
Millender- Sabo
McDonald Sánchez, Linda
Miller (FL) T.
Miller (MI) Sanchez, Loretta
Miller (NC) Sanders
Miller, Gary Sandlin

NOT VOTING—11

Cantor Lowey Stenholm
DeMint Otter Tauzin
Hyde Reyes Wicker
Lantos Scott (GA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1817

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. OTTER. Mr. Speaker, unfortunately I missed the vote on H. Con. Res. 409 "Recognizing with humble gratitude the more than 16,000,000 veterans who served in the United States Armed forces during World War II and the Americans who supported the war effort on the home front and celebrating the completion of the National World War II Memorial on the National Mall in the District of Columbia". Had I been present I would have voted for this bill.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, under rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 2660, the fiscal year 2004 Labor-HHS appropriations bill.

The form of the motion is as follows:

Mr. George Miller of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2660 be instructed to insist on reporting an amendment to prohibit the Department of Labor from using funds under the Act to implement any portion of a regulation that would make any employee ineligible for overtime pay who would otherwise qualify for overtime pay under regulations under section 13 of the Fair Labor Standards Act in effect September 3, 2003, except that nothing in the amendment shall affect the increased salary requirements provided in such regulations as specified in section 541 of title 29 of the Code of Federal Regulations, as promulgated on April 23, 2004.

MOTION TO INSTRUCT CONFEREES ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. POMEROY. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore (Mr. SWEENEY). The Clerk will report the motion.

The Clerk read as follows:

Mr. Pomeroy moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the concurrent resolution S. Con. Res. 95 be instructed to agree to the pay-as-you-go enforcement provisions within the scope of the conference regarding direct spending increases and tax cuts in the House and Senate. In complying with this instruction, such managers shall be instructed to recede to the Senate on the provisions contained in section 408 of the Senate concurrent resolution (relating to the pay-as-you-go point of order regarding all legislation increasing the deficit as a result of direct spending increases and tax cuts).

The SPEAKER pro tempore. Pursuant to rule XXII, the gentleman from North Dakota (Mr. POMEROY) and the gentleman from Iowa (Mr. NUSSLE) each will control 30 minutes.

The Chair recognizes the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we know that we have a very large problem facing this Congress: we cannot pass a budget. We have got a budget that has passed the House, a budget that has passed the Senate, but an absolute train wreck in conference committee with neither side indicating any indication to reach compromise and finish the budget process.

The motion that we have before us, we believe, unlocks this problem. It would have the House pass the motion to instruct conferees relative to the PAYGO requirement, a requirement I will explain more fully in a moment. This passed the Senate and is now, I believe, the key to getting this resolved, will we have the PAYGO budget enforcement provision as part of the budget. Quite frankly, it appears very possible that without embracing some kind of bipartisan step toward budget discipline along the pay-as-you-go requirement, this House, this Congress, will not be able to pass a budget. Obviously, with the President, the Senate and the House in one-party control, one would not expect that that would be the result, but that is the result without some movement toward budget discipline.

Why has budget discipline become so central to the budget debate? I have got some charts that illustrate in very painful fashion what has happened to the Federal budget during the last 3½ years. This chart captures the skyrocketing deficit from years 2002 to projected end of year 2004. What we see is a budget spinning entirely out of control, an absolute hemorrhage of red ink with Congress now spending more than \$1 billion a day more than it takes in. This all accumulates in the national debt, a soaring burden for our country and the next generation.

If that chart captured the whole story, it would be very dangerous and frightening. I hate to tell you this, but the story is actually worse than that. Because of budget rules, the full exploding nature of the tax cuts which throw our budget even more radically out of budget occurs after the measurement period of this budget debate. This chart captures that. The budget before us covers the first 5 years. What happens in the next 5 reveals the dirty little secret of their budget plan, skyrocketing red ink, a budget more out of balance than ever before, just at the period of time baby boomers leave the workforce, move into retirement, each one carrying a guarantee from the Federal Government that Social Security will be paid, that Medicare will be paid.

Knowing how many baby boomers there are relative to the rest of the population, the obvious thing for this country to do is pre-position and improve the fiscal condition of this country so that we are ready to take the tremendous hit entitlement spending will bring when baby boomers retire.

My colleagues can see what we are doing: exactly the opposite. It is fiscal lunacy as we borrow in ever-radical fashion just before baby boomers retire. The long-term trend here, assuming the administration budget policies, AMT reform and the ongoing war costs take us to a national debt situation of \$14.8 trillion by the year 2014. The debt service cost on that alone is \$400 billion, just in interest costs. So this is a very, very serious problem. It is a fiscal catastrophe that has been foisted upon this country. The only thing to do is to begin to deal with it.

This is not the first time the country has had budget problems. It is not the first time we have had people of good will trying to reach across a partisan aisle and come up with some answers. The pay-as-you-go requirement, in fact, that is before the House with this motion was initiated in a budget conference convened by President George Bush, not this President George Bush, his father, George H.W. Bush. They came upon a fairly basic budget enforcement mechanism. In light of not wanting to make the budget situation any worse, they agreed that a pay-as-you-go requirement would apply.

What does that mean? That means if you spend more, you are going to have to find the money to pay for it. You are going to have to either cut spending, or you are going to have to raise revenue. Also on the revenue side, if you cut taxes and reduce the inflow of revenue, you are going to have to deal with it. You are going to have to show at that time where the spending cuts are going to come that offset the revenue loss or what other revenue increases you would have to offset that revenue loss. This was ultimately adopted in a bipartisan vote in 1990. Many believed it was an extraordinarily important contribution to national budget discipline. Chairman Alan Greenspan spoke about the need to get such tools back in the budget process in his testimony to Congress just within recent weeks.

After the 1990 agreement, this thing started to show that it really could work. The budget picture continued to improve. In the budget vote of 1993, the budget votes thereafter, the bipartisan balanced budget agreement of 1997, the pay-as-you-go requirement was affirmed no fewer than two additional times by bipartisan votes of Congress. There is some confusion, I believe, raised by some of the arguments that I have heard coming from majority leadership that those early pay-as-you-go requirements were not applicable to the revenue side. That was misinformation. I have the language of the earlier pay-as-you-go requirements with me, and I am prepared to debate on the floor of this House the applicability of those earlier pay-as-you-go requirements to the motion before us. The motion is the same. And so to my friends in the majority who are inclined to look at this very carefully, thinking about their earlier votes back in 1995 and 1997 in favor of the pay-as-you-go

requirement, I am telling you that you have done this before, and now we need to do it again. We need to do it again worse than ever in light of the budget situation.

That is the motion we have before us. This motion has had two very close votes. When it was offered by the gentleman from California (Mr. THOMPSON) last spring, it was a tie vote, 209–209. Last week, a similarly very close vote on an identical motion brought by the gentleman from Kansas (Mr. MOORE), that one failing 208–215, although we have been informed that some of those voting late in the balloting against this bill were led to believe that the motion before us was different than the pay-as-you-go requirement they had voted for in the 90s.

Let the record be very clear on this. The motion before us on this pay-as-you-go requirement would reinstate the same pay-as-you-go requirement that we had in the 90s that many of my colleagues have voted for before. We have got a situation where we are going to leave our children with this as the legacy, or we are going to have to come to some kind of awakening and recognize it is time for us in a bipartisan way to begin to assault this monster. The way to do it is by reinstating budget discipline.

For that reason, I urge very careful consideration of the motion I have put before us.

Mr. Speaker, I reserve the balance of my time.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

I have been doing a little research over on this side. Again for the third time in a row, the minority rushes to the floor with a breathless motion on fiscal catastrophe, as it was announced, and how if we vote for tax cuts without paying for them, all sorts of red ink will be used on charts all over America. My goodness, you had to almost ruin a printer to print all that red ink on that poster. It is fascinating to me that someone who would be so concerned, so breathlessly concerned about the fiscal catastrophe that awaits the United States if, in fact, you vote for taxes without paying for them would, as I have discovered in roll call No. 144, which was just voted on here, let us see, May 5, where the gentleman who just spoke voted for just such a proposition. He voted for tax cuts without paying for them. And now he rushes down here to the floor saying it is an important principle of fiscal sanity to pay as you go.

I know another principle and that is actions speak louder than words. In this instance, the actions of the gentleman voting not only on May 5, and that is what I was doing some more research on, not only on May 5 did he do that and joined 109 Democratic colleagues doing the exact same thing, wringing their hands at home, decrying tax cuts, trying to talk down the economy and telling how tax cuts are the bane of our existence and yet put out

the same press release that day voting in favor of tax cuts and how that was so important to families and small businesses and I am sure the word “farmer” may have even been used in the gentleman’s press release.

Then I discovered that on April 28, in a roll call vote, No. 138, I see yet again the gentleman from North Dakota voted in favor of tax cuts without paying for them. Once again I wonder, paying as you go, if that is such an important principle, why would the gentleman’s actions, not his words, his words, of course, are we should pay for these things. We are facing a fiscal catastrophe, the gentleman just said. Yet he comes to the floor and votes not once but twice, and I am just wondering how the gentleman will vote tomorrow on tax cuts to make sure that we do not have a tax increase at the end of this year for the 10 percent bracket, the bill that I believe is going to be on the floor tomorrow. I wonder if the gentleman is going to vote for making sure that that tax is not increased on his farmers and small businesspeople. Many of them probably are similar to mine in my small towns and my small counties in Iowa. My guess is that he is not only going to vote the way he did the other two times in favor of cutting taxes without paying for them twice before, but I would bet he is going to do it tomorrow.

□ 1830

And I know why. Because the gentleman is going to argue that that is good for the economy, and he is right; and that it is good for those small business people, and he is right; and that it actually does create jobs, and he is right; and that it is unfair to tax families with children, to have an automatic snap-back tax increase at the end of the year, and he would be correct; and that it is unfair to penalize people who are married; and he would be correct. And so again the puzzlement occurs to this gentleman and so many others why it is that he says on one day pay as you go, but come to the floor on the next day and say, but I really did not mean it for those tax bills that I am in favor of that help my constituents. And it would suggest to me that maybe there is a new saying and it is, “Do as I say, not as I do.”

So we have a situation here yet again, the third time that the exact same motion comes to the floor, and I am wondering if this is not for political purposes that you would on one instance say you have to pay for them and on another instance vote for those exact same tax relief bills as they come to the floor.

The economy is just now finally starting to come off the ground from where it has been, starting to create jobs, starting to see that jobless rate come down and people go back to work. And I know that there are many of my friends on the other side that are just desperately hanging on to any possible bad news about the economy because

they know they are losing that issue politically for the fall election, and so they are desperately holding on to the last vestiges of that issue.

But I would suggest that what is good for our economy and our constituents now is to not have an automatic tax increase, that it does in itself pay for itself with the increase of economic development that is happening in our country. In fact, this year alone, CBO projected a \$35 billion increase from one year to the next, paying for those tax cuts with the economic growth.

Oh, a lot of red has come to the floor. Another big red chart has come to the floor. Let us see how the gentleman who is about to speak voted. I can do that research pretty quickly. Oh, interesting, the gentleman from Virginia with another chart on the floor with a lot of red voted in favor of those same tax bills, not paying for them but voting for them, and I will bet I can find a press release telling his constituents how important those tax cuts were as we face this fall’s election.

I have a suspicion that this is a political vote, and I would encourage my colleagues to treat it as such.

Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I consume.

To have the effort to break loose the budget stalemate in conference committee by having our House pass something similar to what the Senate in a bipartisan vote passed is a serious effort. Obviously they are taking it pretty seriously. They have the chairman of the Committee on the Budget on the floor. And rather than rebut the rather painful underlying reality about the Nation slipping into what would almost appear to be an irreversible hemorrhage of red ink, in very bellicose and sarcastic tones, he wants to point at individual votes and accuse other Members of hypocrisy. I guess that is kind of a refuge when they do not have arguments on the issue, let us blow a little smoke, let us have a little fun, let us throw a little political rhetoric around. But this deserves so much more than that.

I would say to my friend from Iowa, it is not ruining printers that concerns me, it is ruining the Nation. And I really do believe that the red ink that we are generating and continuing in escalating fashion as the baby boomers move into retirement is a dire threat to the future of our country. I believe that you have already put us on a path, with you serving in your leadership as position as Committee on the Budget chairman, working with the administration, working with the Senate Budget Committee, to diminish the prospects of our children by so undermining the fiscal strength of our country.

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, I only have one question. Why would he vote

to cut taxes on one day without paying for them and then come to the floor with a motion the very next day saying he does not have to pay for those taxes?

Mr. POMEROY. Mr. Speaker, reclaiming my time, the gentleman has been most selective in the votes he has cited because I want to tell him, as he knows already, but tell my colleagues that I supported a budget that had the tax cuts mentioned and had them fully offset and paid for, bringing the budget to balance by the year 2008. That was the Democrat alternative, and that is what I voted for. And in addition, we have offered specific substitutes to each of the tax cuts he referenced, and those substitute motions which had the paid-for alternative have been voted down.

I believe there is a merit to those particular tax cut proposals, and I believe that the process is best served by moving them forward, moving them forward hopefully to be resolved ultimately in conference committee in a paid-for manner. So that is what is at stake with my votes. But really there is a whole lot broader issue to discuss on the floor right now, and that is not the voting record on two isolated votes, although I do fully offset in other votes that I have cast on those particular subject matters, but much more over the fiscal situation facing this country.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from North Dakota (Mr. POMEROY) for yielding me this time.

I do feel motivated to respond to my friend from Iowa's comments. I am sure it was not he that suggested there is hypocrisy on our side, but I want to make the record clear, because 2 weeks ago, Mr. Speaker, the Democrats voted 187 to 10 in favor of a fully paid-for marriage penalty tax bill. Last week Democrats voted 196 to 5 in favor of a fully paid-for alternative minimum tax relief bill.

The only way you got us to vote for those tax cuts was after you rejected our very aggressive efforts to pay for those. You recall we got that vote, we took it to a vote, and overwhelmingly the Democrats voted to pay for those tax cuts, and we only voted otherwise after you rejected our ability to pay for them.

But I need to remind my good friend whom I have served with now for several years on the Committee on the Budget that in 1997, the gentleman from Iowa (Mr. NUSSLE) voted for pay-go as applied to tax cuts. In fact, in 1997, the gentleman voted twice along with virtually all of the House Republicans for pay-go to apply to tax cuts. So when he suggests that we are acting inconsistently, and we would not use the word "hypocritically," but I do think "inconsistently" is a proper term when it is applied to the facts of the matter, and again in 1999, the gen-

tleman will recall the Nussle-Cardin budget process bill which required that we have on-budget balancing for tax cuts.

Now, today what we are trying to do is to behave responsibly, fiscally responsibly, because we are looking at the facts, not at any far-flown projections. We are looking at the facts. And the facts tell us that after President Clinton's balanced budget amendment, which passed without any Republican votes, we actually turned our backs on deficit spending, got all the way up to the point where we had a surplus, the green, of course, which the gentleman from Iowa (Mr. NUSSLE), I guess it appears, perhaps was intimidated by some of these colors because they are in stark contrast to some of the rhetoric we have been hearing. This is the fact: During the Clinton administration, there had been a trajectory, right up to surplus, change of administrations, and look what this policy has done all the way down. I mean one would not want a ski slope that steep.

The point is that our policy worked, and it is because we had pay-go applied to spending and to tax cuts. What we have here, clearly, if you want to stop spending, stop the spending. We are saying stop both. If you are not willing to stop the spending, and you obviously have not been, because once the Bush administration came in, there goes the spending on an upward trajectory and there goes the revenue on a downward trajectory. The problem is this is not sustainable.

You say that this is going to balance out, but the fact is it has not. And we have to look at the reality, the real experience. These policies are not working. If you want to cut spending, cut spending and then we can work with you. But right now the reality is unless we apply pay-go to tax cuts as well as spending, this line of deficit is going to continue to decline because we will not have the revenues to pay for the spending that you insist on, and that spending clearly has been going up in an unrestrained fashion.

Mr. NUSSLE. Mr. Speaker, I yield myself 30 seconds.

I do not recall the gentleman from Virginia standing with me on that Nussle-Cardin plan. I appreciate the rendition of history, but I wish he would have voted for that bill as well. I do not think any of the Members on the floor here today voted for that. It would have been a beautiful thing.

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Speaker, I think I did. Does the gentleman have the names?

Mr. NUSSLE. I do not, Mr. Speaker. Let us do some checking on that.

Mr. MORAN of Virginia. Mr. Speaker, I think he needs to do a little research on that.

Mr. NUSSLE. Mr. Speaker, there were so few who did, it would have

stuck out like a sore thumb. That was not one of my finest hours, I would have to say.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the chairman of the Committee on the Budget for yielding me this time.

I am delighted today to be able to talk about the motion to instruct. I am on that budget conference, and I would assure my friend from North Dakota, who spoke earlier, that we are very close to having a budget agreement. The pay-go point of order he is offering tonight, he is saying, is to enable us to move forward with the budget. I can just tell him I think there are other ways to move forward that are much more constructive. This motion to instruct, in my view, goes too far and does not go far enough.

With regard to spending, which the gentleman from Virginia has just stated is the major problem, and I could not agree with him more, it does not go far enough. Why would we want a budget point of order? Why would we not want a law? By having a law, we have a discipline that will actually work to control spending. It would have the force of law. And I do not know why the gentleman would not prefer what was reported out of the Committee on the Budget and what this House will be taking up after the budget is passed, which is a budget process reform that actually has a law. So on the spending side, it should be stronger.

On the tax side, we have a philosophical difference, and we have talked about some inconsistencies here. Yes, it is true that not only did a couple of gentlemen on the floor vote for tax relief as recently as this week, without paying for that tax relief, but the majority of Democrats voted for it, including some who are on the floor tonight who have not been part of the debate yet. Others did not vote for it, and those are the ones who are smiling.

But it is a philosophical difference as to whether spending and tax relief should be both subject to the same pay-go standards. I think they should not be, and I say this for a very simple reason. Tax relief is put in place and has been put in place in 2001, 2002, and 2003 in order to stimulate the economy. Some tax relief is better than other tax relief. We can argue about which tax relief is better. But the proof is in the pudding, as they say, and the pudding is fresh.

We know right now, based on what CBO told us on May 6, that is, earlier this month, and what they told us in March, that even though this tax relief was put in place, even though we reduced taxes on the American people, on small businesses, on investors, guess what is happening? Revenues are increasing, they are not decreasing. If they can point to some spending that has those same characteristics, or spending in general that does, I might feel differently about it. But I do not

know how we can come to this floor time and time again and put up the charts and say tax relief is the reason we are in deficits. It is not. Even if we did all the tax relief in 2001, 2002, 2003, put it together, we still would be in deficit because of spending and because of the economy.

□ 1845

The economy was the biggest problem, the economy going down and revenue going down because of it. And second was spending. Yes, we spent too much. On the other hand, we had some real needs, including increasing our military spending to respond to the war on terrorism, including spending, we were told, over \$100 billion just to respond to 9/11. The tragic loss of life also required a tremendous amount of Federal revenue. Now today in Iraq, yes, we have increased spending for those purposes. But tax relief was not the reason we are in deficits.

The irony is, it is the reason we are making progress against the deficit. CBO has just told us again within the last week, they believe the revenues this year will be \$30 billion or \$40 billion or so greater than projected. Revenues are going up, not down. Because of tax relief, revenues are going up, because the economy is growing in response to the tax relief.

Economists right, left, and center will tell you this tax relief which was passed by this Congress had the effect of helping on consumer spending, more money in people's pockets; on helping on investment, corporate profits; therefore more revenue coming into this economy, more capital gains revenue.

So it is a philosophical difference, and that philosophical difference will be played out again tonight on this motion, as it has been played out over the years in this House.

The final point I would like to make with regard to whether we should put pay-go rules on taxes as we should on spending is to look back at recent history. My friend from Virginia talked about the 1993 agreement. Let us talk about the 1997 budget agreement that was called the balanced budget agreement that actually got us out of red ink.

There was tax relief from that agreement, by the way. There was also a commitment by this House to restrain spending. The Republicans controlled the House and the Senate. Republicans decided, working with Democrats in a bipartisan way, we would control spending together, and we stood down here on the floor of this House and we pounded our chest and we said within 5 or 6 years we will have a balanced budget. I did the same.

That would have been 2002, maybe 2003. Within a couple of years, we had a balanced budget, and within 3 years we had surpluses. Why? Because, by restraining spending, by growing the economy through smart tax relief, we grew, we grew out of the deficit.

That is what we want to do again. We want to grow out of this deficit. We want to restrain spending, very important, and pay-go ought to apply to spending for that purpose, and we want to put smart tax relief on the floor of the House for an up-or-down vote. It is not like it is not subject to some procedure here or some discipline. It is subject to the discipline of the House and the Senate and getting through a conference and being signed into law by the President.

But by restraining spending and by growing the economy, we believe we can make progress on the deficit. We believe we can reduce the deficit in half by 3 or 4 or 5 years, depending on how much spending we can reduce and how the economy grows. And we believe the pay-go rules ought to apply, and apply even more aggressively than is proposed tonight to spending, but not take away the opportunity for us to have meaningful tax relief, to be able to grow this economy, which after all was the solution to getting us into surpluses back in the 1990s and into 2000.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond quickly. By omitting the revenue side of the equation in a pay-as-you-go requirement, you literally leave out a critical component of what drives the budget. This might straighten out the gentleman's history here.

Revenues have plunged as a result of the earlier tax cuts, the lowest percentage of GDP since the year 1950. As revenues plunge, you get yourself into deficit.

Can you imagine a family trying to balance their household budget saying, you know, we are going to have to get hold of this. We are going to have to cut spending, cut our family spending. Then, at the same time, saying, but, you know, we are working a little too hard, so I am going to take more vacation. I am only going to work part-time, because the revenue side, we are not going to deal with the revenue side, we are just dealing with the spending side.

That is as much lunacy as what is proposed in terms of dealing only with pay-as-you-go on spending and leaving off consideration of the revenue.

To put it in another way, revenues have plunged very significantly over the past 3 years. Revenue has declined 12 percent. So this business of we are going to cut taxes and get more revenue as the economy grows has not been demonstrated.

There has been one area of growth, one very predictable area of growth; the deficit has grown to the largest level in the history of the country. And if there is a budget deal coming out of the conference committee, it is going to have an increase in borrowing authorization for this country, and we are told it might exceed borrowing authority in the amount of \$10 trillion, debt we will pass on to our children.

We will have a better way to further explain that.

Mr. Speaker, I yield 4 minutes to the gentleman from Washington (Mr. McDERMOTT).

(Mr. McDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, my good friend from Iowa is such a good Member, and I really hate to review the bidding here, but last time I looked, Republicans had the Presidency, and they had control of the Senate and they had control of the House, and, if I am not mistaken, the Federal law says that on the 15th of April you are supposed to pass a budget.

Now, if we give you all the cards, for heaven's sake, can you people not work it out? Do you have to keep fighting among yourselves? I mean, here we are, and all we are asking you is to go along with that other body.

Now, I know that the gentleman is not a bad person, and I do not like to bring up this stuff about how we have voted for this. You know, you pick on guys, these other guys who voted for tax cuts. Look for me in that list.

Mr. NUSSLE. Mr. Speaker, if the gentleman will yield, I am looking here. I do not see "McDERMOTT" anywhere on the list.

Mr. McDERMOTT. Mr. Speaker, reclaiming my time, we finally got one up here that the gentleman is not going to call a hypocrite, is he? I do not mean that consistency is the hobgoblin of small minds. I know that one has to be flexible when one is the chairman, because the gentleman voted for pay-go many times and said it was a good idea, and the gentleman from Virginia (Mr. MORAN) got out here and gave the gentleman all that evidence.

But the fact is that what we are talking about here is, you know, there are a lot of people sitting out there watching this, and they go down to the grocery store and they have a \$20 bill and they say, well, I am going to buy some groceries here. So they buy what they can get with \$20. That is the way a lot of people operate in this world.

But the Republicans, ever since they have taken over this House, in fact you did it under Reagan, we tried this Laffer curve business and all that and went into this great big deficit, and it took Clinton to get us out. For all you want to say about Bill Clinton, he did dig us out of your mess from the Reagan years. You did not learn anything from that.

So you decided let us get out our favorite two credit cards and you said, well, we got Social Security, we got a whole lot of money over there in that one, and we got a whole lot over here in the Medicare one. Let us just spend off these credit cards like wildfire. That is where you get those red blotches on the graphs.

Now, the people out there, they do not understand why it is you do not want to pay as you go. Who do you think is going to pay off these credit

cards? Do you think maybe it is the Democrats who are going to pay it off when we take over next time? Our job will be, how do we dig ourselves out of the hole you put us in?

We are just trying to lay the groundwork for saying, hey, look, we know we are going to be in charge soon, or hope so, or, if God wills. You know, under God we do not know what will happen, but we may wind up in charge. And you have spent our credit cards into such a mess, we will have to do something.

We cannot keep spending, because people are getting older. There are a lot of those baby-boomers that are coming up, and they are expecting that the money that was in the account that you have been borrowing from is going to be there for them, and they are going to find out it is empty. We are going to be caught with digging us out of the hole.

Now, you may think it is funny, and you may enjoy this ride, but I will tell you something: When the baby-boomers get to be senior citizens, you are going to have a price to pay, because all this profligate spending is going to come home to roost.

I think it just makes sense to adopt this resolution and go with the Senate. They are very smart over there; oh, very smart.

Mr. NUSSLE. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Speaker, I thank the gentleman from Iowa for yielding me time.

Mr. Speaker, I want to point out and expand on a point that the gentleman from Washington just brought up, and that is about the Federal deficit. He talked about the future obligations that are part of our Federal deficit. If you look at all the red ink we have seen on the charts and you look at today's Federal deficit, we are not talking about the same thing as what we have in our outstanding debt.

There is a lot of confusion between the deficit, which is how much money we spend versus how much money we take in, and then the national debt, which is when we start talking about baby-boomers, then you start talking about the impact of the national debts.

Right now, our national debt is around \$7 trillion. About half of that is publicly held debt. The other half is future obligations. So when we look at all that red ink and get up to \$14 trillion, a lot of that is future obligations. It is Social Security for every individual in elementary school today. It is Medicare for every person that is in day care today. It is those people that exist today that at some point are going to be part of public law and they are going to qualify for Social Security, for Medicare, for the prescription drug plan. And that is some of that red ink you are seeing out there. So I think we need to distinguish between publicly held debt and future obligations.

The concept of pay-go which is being pushed by the Senate is really fun-

damentally flawed economic policy. It makes an underlying assumption that if you reduce revenue by \$1 for tax relief, you are going to have a \$1 reduction in Federal revenue; a \$1 reduction in taxes equals a \$1 reduction in Federal revenue.

But we know from history that is not true. In fact, if you looked at the 1980s, in 1980 the Federal revenue was about half a trillion dollars per year. Reagan, under his leadership, we passed the largest tax decrease at that point in history, and what happened over the next decade is revenue doubled. The Federal revenue by 1990 was \$1.1 trillion.

Even under the plan that was shown under the so-called Clinton surplus, the Clinton surplus was even preceded by tax relief. He signed tax cuts into law. One of them was capital gains. When we reduced capital gains from 28 percent to 18 percent, we actually had an increase in Federal revenue, not a dollar-for-dollar reduction, \$1 tax versus \$1 reduction in Federal revenue.

So the fundamental policy of pay-go is flawed. If you have tax relief, three things happen: Tax relief provides a little more money in somebody's pocket. They either save it, spend it, or invest it. If they spend it, that is a demand for goods and jobs. That is good for the economy. If they save it, it provides money for home mortgages. That means more building, more jobs, a good thing. The third thing is they invest it. If they invest it, that means capital for companies to expand and hire more workers. So all three things that come out of tax relief are good, fundamental economic policy.

But if you have this Keynesian economic view buried in this pay-go provision, then you think the Federal Government drives the economy and not the free market system. That is fundamentally flawed. It is the free market system that makes America great.

When you increase taxes, you limit that; and when you reduce taxes, you increase the ability for Americans to do the right thing with their money, and that means more Federal money.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, that is a very interesting bit of economic history there, but I would put forward a different view. Which economy worked best, the economy of the nineties, when you had pay as you go, or the economy of this decade, so far a very stalling, disappointing economy?

Mr. Speaker, I yield 4 minutes to my friend, the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank my colleague from North Dakota for yielding me time.

Mr. Speaker, since everybody wants to talk about the 1997 plan and what we did, just so we can all have a rendezvous with the record here, in fact we cut taxes on middle-class families with the introduction of the \$500-per-child tax cut for people making \$100,000

or less. We increased spending in higher education. We created the Children's Health Insurance Program, a \$24 billion program for the children of uninsured parents who worked. We invested more dollars in environmental cleanup. We made long-term investments in the health of this country, which is in health care, education, and the environment. We expanded charter schools up to \$2,000.

So we in fact paid for those spendings because they were good investments. We reduced the deficit down to a balanced budget, and we cut taxes for middle-class and working class families.

What we did not do was say every tax cut is good and every spending increase is bad. Some tax cuts are good. The \$500 per child, which was the introduction in 1997, was a very good tax cut.

□ 1900

In 1993 we cut taxes on working families with the doubling of the earned income tax credit, which was originally created by Ronald Reagan in the 1983 budget.

So, in fact, not all tax cuts are bad; but when you have a tax cut for corporate jets and yet you put a squeeze on middle-class families, those are bad choices. As President Kennedy once said, to govern is to choose. When you make investments, not all spending by government is good; there is a lot of waste. But when you invest in uninsured children of working parents, 10 million of them who finally get health care and you pay for it, you are a better country and those are good investments.

When you expand the investments in opening the doors of college education, doubling the size of Pell grants as we did in 1997, that is a good thing. When we provided for middle-class families a tax deduction for a college education, we created the lifetime learning, the HOPE scholarship for continuing learning, those are good tax cuts. They led an investment boom, an economic boom which all incomes enjoyed, not just the top 1 percent, as is happening now.

So to compare what happened in 1997, to think fondly of your memory, we increased our investments and government spending in the areas of health care, education, and the environment, we cut taxes for middle-class families, and used the rule of putting our fiscal house in order. And all of those investments, all of those tax cuts started with the notion that we had to have a balanced budget.

The difference today is our tax cuts are skewed not to middle-class families, not to working families; they are skewed towards people who make money from money where the burden on people who work for a living are carrying more of the tax burden than those who do not.

So not all tax cuts are good and not all spending is good. We have to make choices based on an economic strategy.

Today, we have had the most anemic wage growth for middle-class families:

1 percent. College costs this year went up 14 percent; last year, 10 percent; and the year before that, 11 percent. Health care costs have gone up by a third, and people's savings have lost their net value by \$200 billion in the last 2 years. That is the economic condition of our middle-class families, and we need an economic strategy that puts our fiscal house in order, reflects the priorities that American families are facing by making sure we invest in health care, invest in education, invest in the environment, and give middle-class families, rather than corporate jets, which your budget and your economic plan does, give middle-class families the type of tax cuts they deserve because they are trying to raise their children. That is where we should invest our limited dollars.

This PAYGO rule begins by putting the budget of the Federal Government back in order, as the gentleman from Iowa (Chairman NUSSLE) voted for in 1997 and made sure every tax cut was paid for, made sure every investment in spending was paid for. Those were good economic times. They created 22 million jobs. We need to go back to that strategy. It was good in 1997, and it will be good in 2004.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Let me start by saying that I am sure, because I know the gentleman from Illinois to be a very honorable Member and friend, and I am sure all of those facts that he just cited were true about 1997 and the economy of the 1990s. Let us just assume for a moment that they are. It was peacetime. I mean, does the gentleman think there is a difference between the 1990s and the period of the 2000s since what happened when we inherited the Clinton recession of 2000 and the attacks on the World Trade Center and the Pentagon of 2001, and the war with Afghanistan and now Iraq? Does the gentleman think there is just a little bit of difference between the 1990s and this next century that we are in? Maybe just a little. Maybe just a smidgen, it might be different.

And even though we found all sorts of spending priorities during the 1990s, education and the environment that the gentleman talked about, it is interesting that during those 1990s, we did not seem to find the priority of national defense or intelligence or homeland security, or a prescription drug benefit for seniors.

All of that time that President Clinton was working on all of these great policies of growing the size of government, taking more money out of the pockets of families with that huge tax increase of 1993, during all of that expansion of government, not once during that time could there be found the priorities of defense, intelligence, homeland security, and a drug benefit for seniors.

So I understand that there were different priorities back then. It was a different decade. We were at peace. We

are now at war. This is not a time to raise taxes on the American family. We are just now coming out of a recession. This is not the time to raise taxes on business. We are now finally getting back on our feet; and it is not the time to say to people, we need more of your money. This is exactly the time, exactly the time to say that those tax cuts should be predictable, they should be permanent, people should be able to bank on them, they should be able to plan for their futures, they should be able to make decisions that affect their families and their small businesses and their farms without having the peril of somebody coming to the floor and suggesting now, for some reason, that we have to start paying for tax cuts, and then voting just the opposite when the actual tax cut comes to the floor for a vote.

It is interesting that on one hand they say we should pay for tax cuts and then the actual vote; and boy, I know they are kind of tricky, because just that vote, that specific vote on tax cuts, when that vote comes to the floor, they seem to be very interested in voting for that tax bill.

Let me just review some things, though, because I know my friends on the Democratic side are very interested in talking down the economy. They are interested in saying, those tax cuts have not worked. I want to tell my colleagues that the tax cuts have worked. Let us just review a few things.

Payroll employment increased by 288,000 jobs in April. We have the most people working in America at any time in our history, today. More people are working in America today than at any time in our history. Manufacturing employment increased by 37,000 jobs over the last 3 months alone. It was the best 3-month period since those boom days of the 1990s, since 1998; the best 3-month period since 1998. Unemployment was down to 5.6 percent in April from its high of 6.3 percent last June. Unemployment insurance claims have fallen to their lowest level in 3½ years since we inherited that Clinton recession of 2000.

Real growth in the economy, which is measured by our gross domestic product, was at 4.2 percent at an annual rate for the first quarter of 2004, following an 8.2 percent growth in the third quarter. It is the highest quarterly rate in over 2 decades, and the last 6 months have been the fastest growth in over 20 years. Manufacturing activity soared at the end of 2003 and into the beginning of 2004, registering its highest pace in 20 years.

So keep talking about the bad economy, keep using it as a political issue, keep trying to talk down the marketplace, keep trying to deliver all that bad news, because it is not here. People are going back to work. The economy is improving. People are making things. Because as my friend, the gentleman from Kansas, said, they have the money to spend. We are not taking it out here in Washington.

It is interesting that when Democrats come to the floor and they say pay as you go, guess what? They are not the ones willing to pay. When they say pay as you go, it means there is a tax increase buried some place, there is a secret tax plan that is available for anyone to look at, and it is called tax the rich. Well, hold on to your wallets, folks, because they think you are rich, and they are coming after you. And every single time they talk about taxing people, they are talking about taxing you. They are talking about taxing people who are married. They are talking about families with children. They are talking about small businesses that are creating the most jobs.

Mr. Speaker, that is what we are concerned about when we say this is not the time to raise taxes and this is not the time to talk about paying as you go, because these tax relief packages that we have passed are getting the economy back on its feet and revenue, as a result, is coming into the Federal Government. We are receiving more revenue into the Federal Government than we are allowing people to keep in their pockets through these tax cuts that we are promoting on the floor.

Mr. Speaker, I know it is working. And the reason I know it is working is because 102 Democrats voted for them. They know, including the gentleman from North Dakota, who voted on April 28 to cut taxes without paying for them, because he knows, he knows what that means to the economy of North Dakota. He knows what it means to the economy of Iowa. He knows what it means to the economy of the United States. He knows where jobs are created. I know that because I have served with him every year he has served in the Congress, and I know the gentleman understands that that is how jobs are created. That is why he voted for these things.

I do not argue with the fact that he votes for them. What I am concerned about is that the leadership has forced the gentleman to come down here with a political issue. The last two gentlemen have failed in their attempts to try a political issue on the floor, and so now they roll out the gentleman from North Dakota.

But the gentleman from North Dakota, I know, is smarter than that, because on May 5 he voted to cut taxes without paying for them, because he knows that you do not have to pay for some of these tax cuts, because they generate economic activity. They generate that economic activity in farms and small businesses, putting people back to work; and as a result of those people back to work, they pay into the Federal Government in taxes as taxpayers, and the result is more revenue coming into the Federal Government. The gentleman knows that. That is why he votes consistently to reduce taxes.

I just wish that he would stop trying to tie our hands for the future; trying to tie our hands, just as the economy is

getting back on its feet, blaming tax cuts for all the red ink when we know because of two wars, when we know because of the gut-punch of 9-11, when we know because of the bail-out of the economic crisis that occurred after the terrorists attacks, that we know because of huge increases for defense and homeland security, appropriately so, to protect the country, we have had to borrow money. We borrowed money deliberately, at a time with interest rates being very low, to do two important things: make sure that our country was protected and make sure that our economy could get back on its feet and start growing again.

Well, our country is protected and continues to be protected; and we will all do whatever it takes to make sure it continues to be protected. But we also have to make sure that it continues to grow, because while we can be secure in our border, we also have to be secure around the kitchen tables of North Dakota and Iowa and the rest of the country. We want to make sure those families who are faced with sometimes much more perplexing issues than what we face here in Congress, like how am I going to pay for college; and how am I going to pay for the health care bills; and how am I going to deal with clothing my kids when I have been out of work for a little while, those are important issues that they face, and we want to make sure they have all of the resources necessary in order to make those important decisions around their kitchen tables with their families.

The only way to do that is to continue the policy which has worked, which has gotten our economy back on its feet, and will continue to work if we allow it to do so, without being hamstrung by a special Senate rule that only stands in the way of making sure that those tax cuts can be predictable, that they can be permanent, and they can continue the job of making sure the economy grows.

Let us vote down this special rule that will only cause tax increases in the future, and let us support the underlying budget which controls spending, which grows the economy, and which makes sure our country is protected. That is the budget we need to pass. We do not need to have a Senate rule, a rule from the other body to tie our hands for tax reform, tax relief, tax simplification in the future. That is what the gentleman, unfortunately, and probably inadvertently, would accomplish if, in fact, this plan passed. He wants to continue to support tax cuts; so do we. We want the economy to continue to grow, and the only way to do that is to vote down this motion to instruct.

Mr. Speaker, I yield back the balance of my time.

□ 1915

Mr. POMEROY. Mr. Speaker, I yield myself such time as required to close and I will speak from the other podium.

I thank my friend from Iowa, the chairman of the Committee on the Budget, for joining in this spirited debate, but to any one of our colleagues watching, there is something that we know for sure and that is that bluster does not cover facts. Energetic presentation of lots and lots of stuff does not mask an economic record reflected in these charts.

This is what has happened to the deficit during the last 2 years, and this is where we are going over the next 10 years.

Now, what we are seeking with this motion is budget enforcement ability to try and level out this deeply alarming trend line on national debt. Pay-as-you-go means that if you spend more, you have got to cut somewhere else; or if you cut taxes, you have got to cut spending and show where you do it; or if you cut taxes, you have got to raise taxes somewhere else. It has all got to work out in a zero-sum game. You cannot continue to make the budget situation worse.

We can get lost in the economics and the numbers, but I think it is helpful to just think of it this way. We pay as you go now, or our kids pay when we go later, because these things are not balancing out. Representations that tax cuts are producing more revenue are not at all borne out. The Federal revenues from individual income taxes in the year 2000 was \$1.4 trillion. The 2004 estimate is \$765 billion, almost down a quarter.

As you have revenues fall so precipitously, you have had the debt line grow so significantly. We have had some job numbers thrown out. The fact is we are down 1.6 million jobs. This administration is the first administration on track to have a net loss of jobs since Herbert Hoover was President, but those are issues for another day.

Let us just understand that if you like the economy of the 1990s better than the economy we have seen this decade, realize that throughout the 1990s we had pay-as-you-go budget enforcement, which meant we were trying to get a handle on national debt. We have absolutely lost our way when it comes to fiscal sanity, and that is why we have had this explosion of debt, a deficit leading to debt, and we have got to get our hands around it.

So I believe that if this House took the step of instructing conferees to go with what the Senate has passed, and that is a bipartisan vote to embrace this pay-as-you-go requirement, we can once again get on track. This has been the very issue that has received bipartisan agreement in the past, 1990, 1995, 1997, and now it is time in 2004 for us to do it once again.

It is time for us to do this for our children. We put pay-as-you-go in the budget or it is you pay when we go to our children. As a father of an 8- and a 10-year old back home in Bismarck, North Dakota, I know we owe them a good deal better than this, a very unstable fiscal situation just when baby

boomers retire and start drawing on Medicare and Social Security. We could turn this around, and passing this motion is the place to do it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CHOCOLA). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from North Dakota (Mr. POMEROY).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. POMEROY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the Special Order of the gentleman from Michigan (Mr. STUPAK).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 5 minutes.

(Mr. GOODLATTE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. HENSARLING. Mr. Speaker, I ask unanimous consent to take my 5 minute Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

WASHINGTON WASTE WATCHERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise again as part of the Washington Waste Watchers, a Republican working group dedicated to rooting out the

rampant waste, fraud, and abuse in the Federal Government.

Despite a major economic recovery underway, rising employment, new jobs and historic rates of home ownership, Democrats keep demanding that we take away the tax relief, take away the tax relief that is responsible for this unparalleled growth in our economy, the tax relief that is bringing down the unemployment.

The tax relief, if it were a line item in the budget, amounts to 1 percent, 1 percent of the \$28.3 trillion 10-year spending plan approved last year. In other words, 99 percent of our fiscal challenges are on the spending side. And, Mr. Speaker, that is where we need to focus our attention, and by any measure, spending is out of control in Washington.

For only the fourth time in the history of our Nation, the Federal Government is now spending \$20,000 per household. Mr. Speaker, it is up from just \$16,000 just 5 years ago, representing the largest expansion of the Federal Government in 50 years.

We have a spending problem, not a taxing problem, and now is not the time to raise taxes again on American families and small businesses, as Democrats seek to do. Instead, it is time to take the trash out in Washington. Let me give my colleagues just a few examples of typical waste, fraud, and abuse in government that we found just this week.

The Interior Department's Inspector General discovered that the Bureau of Indian Affairs accepted inflated school enrollment estimates that resulted in the construction of schools that were larger than required. The Bureau spent \$37 million for unneeded school space and has future plans to spend an additional \$74 million for even more excess school space. This wasteful use of our tax dollars occurred because the Bureau had not developed or implemented simple policies to count students. And yet Democrats want to raise our taxes to pay for even more of this? One hundred and eleven million dollars of the American people's hard-earned money down the drain. That is enough money to outfit 3,700 Humvees in Iraq with armor plating.

Additionally, the Department of Transportation's Inspector General stated that if the Department simply imposed better oversight on projects from start to finish and aggressively fought gas-tax evasion, the Department could save billions of dollars. In fact, if the efficiency with which the Federal Government and the States invested \$700 billion in highway projects was improved by only 1 percent, an additional \$7 billion would be available, and that could fund 8 out of the 15 active major highway projects today.

This is especially relevant because the House voted recently to approve a \$284 billion highway bill that will force Congress to either increase the deficit or raise gas taxes to pay for it.

Next, Mr. Speaker, just this week the GAO announced that the government

paid \$169,000 in fees to unaccredited schools for bogus graduate degrees for Federal employees. I mean, that is a blatant violation of Federal law. The General Accounting Office said this amount was actually an understatement and that it is impossible to verify the true cost of this fraud because the Federal agencies do not have systems to verify academic degrees and because they do not accurately account for these expenses. In fact, the Department of Health and Human Services, when asked by the General Accounting Office to verify expenses on degrees, said they could not produce them because they maintain such large volumes of information in five different accounting systems.

One hundred sixty-nine thousand dollars on bogus degrees. That is enough money to protect over 100 of our American soldiers in Iraq with Kevlar vests.

Mr. Speaker, the list goes on and on and on; so does the waste, the fraud, the abuse and the duplication, and this has been going on for decades.

The problem is, we now have over 10,000 Federal programs spread across 5- to 600 agencies with little accountability to anyone, and when you just scratch the surface a little bit, what you discover is that so many of these programs routinely waste 5, 10, even 20, 25 percent of their taxpayer-funded budgets, and have for decades.

Republicans are working hard to root out this senseless waste of American tax dollars, but too many of our Democrat colleagues keep fighting us every step of the way. Last year, our Committee on the Budget approved a budget asking for authorizing committees to identify 1 percent of waste, fraud and abuse, just 1 percent. Yet the Democrat leaders ridiculed and reviled our efforts. One Democrat leader termed it "a senseless and irresponsible exercise."

Mr. Speaker, I am sure that most Americans disagree. With the Nation at war and with a large budget deficit, there is no better time to root out this waste, fraud and abuse than now, because when it comes to Federal programs it is not how much money Washington spends that counts, it is how Washington spends the money.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent to replace the gentleman from Ohio (Mr. BROWN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

RESPONSE TO THE WASHINGTON WASTE WATCHERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, well, that was interesting. Now if only the Republicans controlled the White House, the House of Representatives and the Senate, they would take care of this waste, fraud and abuse at the agencies.

Many of the things the gentleman talked about are due to administrative mismanagement. If only George Bush was a Republican and they controlled the White House. Whoops. He is and they do. If only they controlled the House of Representatives. Well, they do; and the Senate. They control the entire Federal Government, and he comes up here and talks about the waste, fraud and abuse that he would eliminate if only they were in charge. Well, they are in charge. Why do they not eliminate it?

They never bring bills to the floor to deal with waste, fraud and abuse. He talked about a few things that could provide a little bit of help for the troops. Let me talk about things that could provide a lot for the troops.

Comanche helicopters, a scandal that has been going on starting with the Democratic administration and Republican Congress but continued under the Republican administration; \$9 billion wasted. Finally canceled. No products. How many Humvees and sets of armor could we buy for that? Tens of thousands, hundreds of thousands of sets of armor and armored Humvees which, guess what, Donald Rumsfeld did not order. That is why we do not have them, not because there is not enough money in the Pentagon budget.

They did not order what we needed to protect our troops because they did not predict what would happen because Rumsfeld would not read the reports from the State Department intelligence folks and from the CIA. He had Ahmed Chalabi, his favorite convicted felon from Jordan, who was feeding him information that he was paid to give, that he admitted was false.

Then there is the \$2 billion Crusader cannon, canceled. No product. How many sets of armored Humvees could we buy for \$2 billion?

Then, of course, the \$100 billion Star Wars fantasy. The Republican majority and the President want to spend \$10 billion this year to deploy a missile defense system that does not work, according to the Pentagon itself; is untested, cannot even intercept a missile on a trajectory without decoys; \$10 billion. Twice what we will spend defending all the borders and all the ports of the United States of America against the real threats, the new threats, the terrorist threats that these people are ignoring because they are worried that some suicidal maniac is going to shoot one missile at the United States, like Kim Jong Il who does not have any

missiles that can reach the United States, and have this country instantly incinerated.

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That is not the threat. The threat is a tanker, a freighter, a truck coming across the border, or something being smuggled in some other way. But we are doing nothing to protect against that. We are going to spend the money. Why? Because the defense contractors are making a bundle, and then they turn around and give a cut to the Republicans to help keep them in the majority, just like the pharmaceutical industry I talked about earlier today.

So it is just kind of pathetic, people standing up here saying, I'm a waste-watcher, and if my party was in charge," oops, they are. "If my party had the Senate," oops, they do. "If my party had the White House," oops, they do. And you are doing nothing about it. Well, do something about it. The minority cannot stop you.

Please, do not give us that. The American people are not quite stupid enough to believe that the minority in the House, who is trampled over day in and day out, is stopping the Republicans from taking those steps. You are not even trying, because a lot of your buddies are making money on that stuff.

NEW RECORD SET BY PRESIDENT BUSH

Mr. DEFAZIO. Mr. Speaker, I came to talk about something else. I do not have much time left now, but I wanted to talk about a new record that has been set by the Bush administration.

Congratulations to George Bush and his economic team; they have set yet another record. They told us last year, if only the dollar dropped in value, well, that was all that was hurting our manufacturing. It did not have to do with their totally failed trade policies and the outsourcing of American jobs. It was just that the dollar was a little too high.

Well, the dollar dropped catastrophically. It was at a record low just a month ago, and guess what happened during that month? The U.S. ran a record trade deficit. So their theory does not seem to quite work. But we are still outsourcing jobs at a record rate. The dollar has come back a little. That might even make the deficit worse yet again. Their theories have not panned out.

We have a failed trade policy in the United States of America. We are losing our manufacturing base, our technology base. China is stealing our technology, stealing it from small companies in my district; and the Bush administration will not file a single complaint. Not one. They say, let us get China into the WTO, then they will have to follow the rules. Okay, well let us enforce the rules. Oh, no, we cannot enforce the rules.

We are not going to file complaints against China. It might upset our friends, the Chinese. Our friends the Chinese are dealing in weapons, they

are dealing with terrorists on sophisticated manned pads that can shoot down airliners, they are dealing in nuclear technology to terrorist nations. Our friends, the Chinese. The Bush administration says, if we only embrace them a little tighter, they will come around. Yeah, right, after they get all our money, all our jobs, and all our technology, they will come around?

I am just getting tired of these excuses: that if only they were in charge, they would do better. We have a failed trade policy, and what has this President proposed? More of the same.

Now, I have to admit Bill Clinton had a failed trade policy, too; but he copied his from George Bush who copied it from Ronald Reagan, and I opposed all of them as I oppose this.

Let us bring jobs back home to America. We need a new trade policy, and we need a little honesty around here instead of a bunch of whatever.

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

REMEMBER THE MISSION IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, as we consider the implications of the debate about the photographs that our news media has been putting on the front pages and on the TV screens, it is important that we begin to calm down and to take a look at what we are doing and to remember why we are in Iraq.

Frankly, as we hear the discussions about having the President impeached and the Secretary of Defense resign, it is important for us to remember that 9-11 changed everything. So soon we forget, Mr. Speaker. 9-11 is the day that innocent civilians in this country went to work in the morning expecting they would come home to their families that night. 9-11 was the day that this body convened for its normal business. 9-11 was the day soccer moms became security moms, worried about the safety of their children in the streets. And President Bush said that he would fight terror; that if you harbored a terrorist, you were a terrorist; if you funded a terrorist, you were a terrorist; if you allowed them to pass through your country, you were a terrorist. And, Mr. Speaker, he has been solid and resolute about that commitment.

No matter how despicable the acts of our soldiers in Abu Ghraib prison, they remain the actions of just a few. They do not reflect the majority opinion. They do not reflect American values,

and they do not reflect what is going on in Iraq. Because there are magnificent tales of sacrifice and commitment going on in Iraq.

For those people who wonder why the Secretary of Defense should not step down, it has not been that long ago, Mr. Speaker, that we saw Rodney King in those famous videos where members of the Los Angeles Police Department were beating him. That circumstance did not reflect the policemen in L.A. any more than our current actions reflect our soldiers in Iraq. To put it in perspective, we should have, if we want equivalent actions, have called for the Governor of California to step down.

Secretary Rumsfeld is a tremendous political and military leader. If we look at the advances and the accomplishments that have occurred, to suggest change at this point in this war begins to seem irresponsible. Al Qaeda is completely uprooted and on the move. Thousands of al Qaeda members are dead or in prison. The Taliban is gone from Afghanistan. Saddam Hussein sits in a prison cell. We have over 40 of his top officials in prison cells awaiting trial. Libya has begun to give up its weapons of mass destruction, its nuclear weapons. Pakistan worked with us on the Afghanistan border fighting terror. Worldwide, we are seeing terrorists captured and imprisoned by the network of people on the side of good and against evil.

Mr. Speaker, Secretary Rumsfeld is greatly responsible for the actions that are positive and that show that we are winning the war on terror. And to suggest that he step down is irresponsible.

But we must also consider what it is going to take to win this war on terror. It is going to take valor, valor like that of Pat Tilghman, who gave up a lucrative career to go serve his country. It is going to take sacrifice, like a young helicopter pilot from my district who died in a night crash in Afghanistan. It is going to take courage, because this is going to be a long fight, Mr. Speaker. And if we are going to run right now, I will guarantee you that we will not win this war on terror, and that every American life will be affected. And those soccer moms who became security moms will have been justified in their fears, and they will have been let down by the leadership of this country, many of whom are calling for the President to come back home and to leave that fight.

Mr. Speaker, we owe it to the people of this country and to the free people in the entire world to stand our ground and to fight and to have the resolute intent to see that this war on terror is won. Mr. Speaker, I cast my lot on the side of those people who will fight this war, who will see that liberty triumphs over tyranny and over terrorism.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

A TALE OF TWO ECONOMIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, the past 3 years show a tale of two economies and an unprecedented redistribution of wealth in this country resulting in one economy for middle-class families and one for the special interests.

While there is a profits boom for corporations and a compensation boom for the CEOs, there is a growing wage and benefits recession for the middle class. To those who say redistribution of wealth is wrong, I agree. I say redistributing the wealth to the wealthy is wrong and bad economics.

The tale of two economies is a contrast fueled by executive compensation that too often bears no relation to performance and regressive tax policies that punish work and reward wealth, creating an upside-down economy that has shifted the tax burden from wealth to work, burdening middle-class families already facing skyrocketing health care costs, skyrocketing and rising tuition costs, job uncertainty, and retirement insecurity.

While this administration creates tax loopholes for corporate jet use and has reduced the audits of millionaires, it is auditing hundreds of thousands of people and families earning \$30,000 or less. This is the essence of class warfare. And as the famed investment adviser, Mr. Buffet, once said, "There is class warfare and my class is winning."

A report this week, recently out and reported by Bloomberg in the Chicago Tribune showed U.S. corporate profits have increased by 87 percent between the third quarter of 2001 and the end of 2003. Compensation for the average CEO got a big raise of 8.7 percent while salaried employees have seen an anemic increase of 1.5 percent. That is the lowest salary and wage growth since World War II in the beginning of an "economic boom."

Bill McDonough, the former chairman of the New York Fed, and now chairman of the Public Accounting Oversight Board, describes the gap between CEO and worker pay as "immoral." That is his quote. And the New York Fed is not a bastion of liberalism. He notes that in 1980, CEO pay was 40 times higher than the average salaried employee and now is 500 times higher. He sums it up, and I quote, "I know a lot of CEOs from 1980, and I can assure you the CEOs of 2000 are not 10 times better."

The performance of Ken Lay from Enron, Dennis Kozlowski of Tyco, and Bernie Ebbers of WorldCom bear his statement out. At every turn the administration tells us the economy is coming along. That may be true in the

executive suites and board rooms, but the other economy has created the largest income disparities in this Nation.

David Rosenberg, chief economist at Merrill Lynch, one of the leading investment banking firms on Wall Street, said, and I quote, "The income from the recovery has been locked up in the corporate sector. We have had a redistribution of income to the corporate sector."

This redistribution has been accelerated by the President's economic and tax policies. A study cited by The New York Times this week found that Americans are being taxed more than twice as heavily on earnings from work as they are on investment income, even though more than half of all investment goes to the wealthiest 5 percent of taxpayers.

While this administration has been cutting taxes, the rest of working America have been literally going from paycheck to paycheck and having a tax increase. As paychecks have often been effectively frozen for many, what has happened to their lives? Health care costs have gone up from \$6,500 for a family of four in 2001 to \$9,000 today. College tuition costs have gone up 10 percent in 2001, 10 percent in 2002, and 14 percent in 2003. \$180 billion worth of retirement securities locked in 401(k)s have lost their net value.

We have literally put a squeeze on the middle-class family, and what we have today is the end of the middle class as we know it.

As President Bush seeks reelection, he can say he kept his commitment to the top 1 percent of America. The other 99 percent has not made out quite so well. This administration has two books, two sets of values, two sets of priorities, and a single economic strategy that divides the country along class. Compared to how Americans view their futures, we cannot deny the middle-class families the same dreams of affordable health care, quality education, a safe place to live that the most fortunate in this country have today.

A government that pays no heed to the yawning gap between rich and the middle class does it at its own peril.

As Louis Brandeis, a famous Supreme Court Justice, once said, "We can either have democracy in this country or we can have great wealth concentrated in the hands of a few, but we cannot have both."

DOUBLE STANDARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

Mr. GARRETT of New Jersey. Mr. Speaker, I rise now to speak on a double standard. Yesterday, the world learned of a young brave man from Philadelphia named Nick Berg. Nick Berg was a 26-year-old man who was in Iraq looking for work with the recon-

struction and helping to lend a hand to the people in that country.

But a gruesome video, posted on a radical fundamentalist site, shows this young man, Nick Berg, bound in an orange jumpsuit with five hooded al Qaeda operatives standing behind him. One of those operatives read a prepared statement, pulled a large knife from his pocket, proceeded to push his head to the ground, and then with five strokes of the knife, decapitated Nick Berg and then held the head up to the camera.

I tell you, Mr. Speaker, my thoughts and my prayers go to Nick Berg's family and friends.

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I honestly cannot imagine what the family is going through right now and how they must feel, but this act by al Qaeda is a reminder of the evil we face in this world, and it should reinforce this country's determination to win this war against terror.

Yet another concern in the tragic death of Nick Berg is the lack of any forceful response and condemnation from the European nations or the Arab community over this incident.

The worldwide broadcast of the photos of Iraqi prisoners has brought forth outrage by Americans and Iraqis alike, but not surprisingly, the anti-Americans who are already on the radio exploiting that incident as an opportunity to condemn America and Americans, further promoting this double standard of which I speak. Yes, a small number of American soldiers committed crimes against Iraqi prisoners. Those soldiers should be and will be tried and punished accordingly.

However, while explaining our anger over these crimes and our will to punish these people rightfully when found appropriately guilty, calling for the resignation of a Secretary or even appearing over-apologetic for actions at the prison, I think it is a mistake and plays into the hands of the double standard.

The anti-American left, in this country and elsewhere, forever remembers every single American misdeed while forgetting every anti-American and every anti-human atrocity that the terrorists have taken against those who oppose any one of their causes.

Mr. Speaker, what of the media outlets? They detail the outrage of Iraqis based on the images of a few soldiers' crimes against prisoners. They are the same media outlets that showed no remorse, no outrage whatsoever a few years ago, for the thousands of lives that Saddam Hussein killed using his mass graves, nor when the Iraqi crowds in Fallujah burned and mutilated four American contractors and then hung their corpses from a bridge, there was no outrage or remorse.

A while back in an article, Eason Jordan from CNN, he admitted that his network had deliberately covered up and ignored Saddam Hussein's atrocities and they did that just so they

could stay on TV. This policy of caution by CNN is not reflected in their current coverage of the charges against American soldiers.

Although the actions against the Iraqi prisoners are unacceptable, they are not part of the standard procedure here in the United States or in the military treatment of our prisoners. Although al Qaeda states that their actions against Nick Berg are in retaliation for the crimes taken against these prisoners, their actions by al Qaeda in reality are typical of al Qaeda and all their affiliates. Their previous acts of violence against Americans serve as a testament to that fact, such as the attacks of September 11 and the slaying of a Wall Street Journal reporter, Daniel Pearl.

Mr. Speaker, make no mistake, the slaying of Nick Berg was about a war against the West in general, and America in particular, and we should firmly stand on our commitment to our American morals and values and denounce anti-American acts. However, while we publicly uncover crimes committed by some members of our military against Iraqi prisoners, we should not play into this double standard set by various media outlets, the European community and the Arab community, and the American left where America is condemned and the brutality, terror, and the cold-blooded acts of murder of innocent people by terrorists is left unreported and without condemnation.

As these recent actions show, the terrorists are not bound by any moral conscience. America must maintain its strength and its resolve to win this war on terror.

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Maryland (Mr. WYNN) is recognized for 5 minutes.

(Mr. WYNN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Maryland (Mr. WYNN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AFFIRMING DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, the debate over the war in Iraq should not be derailed by the tragedy overwhelming the Berg family. That would be a victory against America that al

Qaeda is hoping for. No Republican or Democrat should do or say anything except that we are profoundly sorry for their loss. The country and Congress must remain focused on those responsible for the abuses at the Abu Ghraib prison.

The administration would have us believe that the abuses were the work of a few rogue soldiers, but accounts from some of those directly involved tell a different story. Today's Washington Post and other media worldwide are reporting on interviews and testimony given by soldiers. A private seen in the photos told the news media she was "just following orders." The general in charge of the prison says she was confronted by a superior and told "my way or the hard way."

From the Middle East, a 16-year-old Iraqi alleges he was subjected to a mock execution in front of his family.

Mr. Speaker, I will include for the RECORD several news accounts.

The military commanders and civilians at the Pentagon cannot agree on who was in charge and what policies were approved. That is what happened in a scandal before. History gets rewritten. Memories fade as if on cue.

From the little Congress has been able to learn in the last few days, one thing is clear; the story keeps changing. This has the look and the feel of a cover-up. The tactic is a well-known one around here: Find some scapegoats; send out surrogates to decry every call for a full and impartial investigation; act and speak like scandal is no big deal.

The American people have seen a cover-up in the past by another Republican administration, and the American people refuse to accept anything less than full disclosure and the truth. It was true for the Nixon administration, it will be true for the Bush administration.

We do not have time to wait for the truth to trickle out, but we certainly cannot show the world that the government leaks are how America finds the truth. These abuses will not go away, no matter how many speeches the majority leader makes trying to divert the attention of the American people. These abuses will not go away until we back our words with deeds and bring justice to everyone involved. Privates do not set policy, they follow orders. This scandal goes deeper and higher than the Congress, and the American people have been told so far.

The Australian newspapers carry the story "Rumsfeld Approved Harsh Interrogation." We need to know the truth, and that means we conduct the most vigorous and independent investigation ever undertaken. An investigation must begin at the top where policies were set and command decisions were made. The investigation must be widened to include Afghanistan and Guantanamo. People outside the reach of the administration should conduct an investigation.

This scandal has shaken this Nation to its core. It is a scandal being tele-

vised around the world every hour of every day. Virtually no one on the face of the earth has not seen or heard about the photographs and the atrocities. Yet some of the administration insist things are not so bad. Every time a Republican steps up to the podium to undertake damage control, the words echo around the world, and the words ring hollow.

Every attempt to act like this is no big deal undermines leaders in both parties who are trying to show the world that America does understand the meaning of justice and responsibility. Like it or not, and I certainly do not, we have to meet this head on. Words like torture, humiliation, and murder do apply. We have no choice but to shine the light of free and democratic society into the darkness of the scandal, whatever the outcome.

No one is above the law in America and we must show the world that the rule of law prevails in this country. It is not enough for the administration to say it will not happen again when the American people do not know how it happened in the first time. It is not enough to speak an apology on one hand, and then send Republicans to the podium to act as if we were somehow permitted an injustice now and then.

Freedom does not come easy, and freedom does not come with exceptions. It is not enough to name a few low-level soldiers and pretend we have addressed the issue. Administration surrogates are sent to the podium to paint Democrats, the news media, and anyone who dares to disagree as unpatriotic. The message around the world is America will do what it damn well pleases, anywhere in the world, illegal, immoral; sorry, world, we are immune. We cannot and we must not send that message.

The administration cannot spin-doctor its way out of the crisis. The world simply will not allow it. We cannot spin the inhumanity displayed in 1,000 pictures. No words can mitigate the humiliation. The war in Iraq is longer about affirming democracy in a far-off land. Now the war in Iraq is about affirming democracy in the United States.

[From The Age, May 13, 2004]
RUMSFELD APPROVED "HARSH"
INTERROGATION
(By Julian Borger)

A list of two types of interrogation techniques: one is basic and for all prisoners; the other is much tougher and requires approval.

U.S. Defence Secretary Donald Rumsfeld approved the use of "harsh" interrogation techniques at Guantanamo Bay, including stripping detainees naked, making them hold "stress" positions and depriving them of sleep, a Pentagon official has confirmed.

Stephen Cambone, the under-secretary of defence for intelligence, also said severe interrogation techniques, including the use of dogs to intimidate prisoners, had been approved by military commanders in Iraq.

But Mr. Cambone, Mr. Rumsfeld's top intelligence official, insisted that all U.S. soldiers in Iraq were under orders to obey the Geneva Convention. He denied that the U.S. military leadership had helped create a climate for prison abuse.

Mr. Cambone was speaking at a Senate hearing to investigate the torture scandal at Abu Ghraib prison near Baghdad, and to determine whether the seven low-ranking guards facing courts martial for physical and sexual abuse of prisoners were following orders.

Revealing the interrogation methods allowed in Iraq, the Senate Armed Services Committee released a single page titled "Interrogation Rules of Engagement", listing two categories of measures.

The first showed basic techniques approved for all detainees, while the second involved tougher measures that required approval by Lieutenant-General Ricardo Sanchez, commander of U.S. forces in Iraq. Among the items on the second list were stress positions for up to 45 minutes, sleep deprivation for up to 72 hours and use of muzzled dogs.

Mr. Cambone said the Bush Administration's policy has been to apply the Geneva Convention to the interrogation and other treatment of detainees in Iraq, but several senators expressed doubts about whether some of the listed techniques conformed with international limits.

Major-General Antonio Taguba, who wrote a damning army report on abuse at Abu Ghraib, told the committee he found no evidence "of a policy or a direct order given to these soldiers to conduct what they did".

However, he said the scandal was a result of "failure of leadership . . . lack of discipline, no training whatsoever and no supervision", and he criticised a command decision to put the jail under the control of a military intelligence unit.

Critics have argued that Mr. Rumsfeld's decision to suspend Geneva Convention safeguards for prisoners at Guantanamo Bay, and the transfer to Iraq of interrogation techniques used there, helped create the conditions for the Abu Ghraib scandal, even if no order was issued to use torture.

"The despicable actions described in General Taguba's report not only reek of abuse, they reek of an organised effort and methodical preparation for interrogation," Democrat Senator Carl Levin said.

According to Senator Levin, an unpublished annex to the Taguba report stated that "sleep management, sensory deprivation, isolation longer than 30 days and dogs" were described as a "permissible technique for use in the Iraqi theatre" on condition that the commanding general gave approval "prior to employment".

Mr. Cambone said the techniques had been approved by U.S. commanders in Iraq, not by the Pentagon.

However, he confirmed that Mr. Rumsfeld had last year approved a new set of techniques, but insisted on being asked for permission each time this "stress matrix" was used.

General Taguba stood by his inquiry's finding that military police jailers should not have been involved in conditioning Iraqi detainees for interrogation, even as Mr. Cambone disputed that conclusion.

Mr. Cambone said that the military policy and military intelligence needed to work closely to gain as much intelligence as possible from the prisoners.

Mr. Cambone also said that General Taguba misinterpreted the November order, which he said only put the intelligence unit in charge of the prison facility, not of the military guards.

While General Taguba depicted the abuses at the prison as the acts of a few soldiers under a fragmented and inept command, he also said that "they were probably influenced by others, if not necessarily directed specifically by others".

His report called for an inquiry into the culpability of intelligence officers, which is still under way.

The unusual public sparring between a two-star army general and one of Mr. Rumsfeld's most trusted aides cast a spotlight on the confusing conditions at the prison last year when the worst abuses occurred, as well as the sensitive issue of whether the Pentagon's thirst for better intelligence to combat Iraqi insurgents contributed to the climate there.

I WAS FORCED TO ABUSE INMATES, SAYS U.S. SOLDIER

An American soldier photographed mocking naked Iraqi prisoners has claimed she was told to pose for the pictures by senior officers.

Pte Lynndie England, 21, faces a court martial over the pictures of abuse in the Abu Ghraib prison in Baghdad which included her holding a dog lead tied to the neck of a naked Iraqi inmate.

She was also shown laughing with a cigarette in her mouth while pointing at the genitals of naked prisoners.

However, Pte England claimed in an interview with the American television network CBS, the first broadcaster to show the abuse pictures, that she was forced to take part in the humiliation of prisoners.

"I was instructed by persons in higher rank to stand there, hold this leash," she said. "And they took a picture and that's all I know."

She also admitted that prisoners had suffered worse abuse, but refused to elaborate on the advice of her lawyer.

Pte England, who is being held in custody at Fort Bragg, North Carolina, said she had been told that the abuse was helping to stop attacks on American soldiers by Iraqi insurgents.

Pte England's lawyer, Giorigo Ra'Shadd, claimed that some of the abuse at the prison was orchestrated by CIA agents. "The spooks took over the jail," he said. "Everything about that command was wacky."

Military officials have admitted that intelligence agents did interview inmates at the prison, and a military intelligence officer was put in charge of Abu Ghraib last November.

However, Maj Gen Antonio Taguba, whose report into the abuse was leaked last week, told the U.S. Senate yesterday that he had found no evidence of senior officers or intelligence officers ordering the abuse.

Pte England, who is four months pregnant, has been charged with mistreating prisoners together with six other soldiers from the 372nd Military Police Company. She faces up to 15 years in prison if found guilty.

No date has been set for her hearing, but Specialist Jeremy Sivits, 24, will face a court martial in Baghdad next week.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

(Mr. STUPAK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SUPPORT LAW ENFORCEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, I am proud to stand here tonight in the well in personal support of our law enforcement officers, all of them all across the United States. Along with our military

members serving so bravely in harm's way overseas, our law enforcement officers deserve high recognition and a special place in our hearts for their service in the name of security and safety.

With this being National Police Week and Saturday, May 15, being National Peace Officer's Memorial Day, I think it is important for us to pause to recognize the noble duty performed by our peace officers. I recognize the special difficulties that come with being both a crime fighter and a keeper of public safety. I cannot imagine the hazards faced by these brave men and women every day. Not only do law enforcement officers fight crime, they work tirelessly, night and day, to prevent crime from happening in the first place.

According to the National Law Enforcement Officers Memorial Fund, 145 law enforcement officers were killed in the line of duty in 2003. On average, more than 58,066 law enforcement officers are assaulted each year, resulting in some 16,494 serious injuries. We have all witnessed frightening scenes and events where no one else would want to go, but the first people who respond to these incidents and accidents are the police. To me that encapsulates the honorable service of our Nation's police officers. They go places that most folks want to avoid.

In fact, just today an alert in the Rayburn House Office Building notified us of a suspicious substance that was found. I admired the officers of the Capitol Police who were there to cordon off a corridor during this alert. I thank God that the alert proved negative, but the mission and duties of all law enforcement officers were brought into sharp relief, and at that moment I was thankful for the protection of us in this body of the Capitol Police.

Fighting crime is not an easy job, and I am certainly not a police officer, but I think I am safe in that assertion. It is a scary job with a lot of danger, but the brave men and women of law enforcement take up the banner of justice and safety for us all. We should be very proud of that.

Mr. Speaker, a tremendous amount of our homeland security falls on the shoulders of local police officers. Our police are the ones who investigate and apprehend suspects who would unleash terror in our homeland. They are the ones we look to for protection and safety against the tragedy of crime and disaster.

Mr. Speaker, any investment that we make in public safety is a winning proposition. There is a great need to support law enforcement not only through our words but through our actions.

Coming from a rural area, I know all too well the challenges faced by people who do not live in or near major cities. There is a unique set of circumstances that confront our rural law enforcement officers every day. That is why I am pleased to join my friend, the gentleman from Oklahoma (Mr. CARSON)

by cosponsoring H.R. 4276, the Rural Safety Law Enforcement Improvement Act. This is good legislation that not only goes a long way to making rural communities safer, but helps to heal some of the damage caused by drug abuse. Rural areas suffer from the same problems that urban and suburban areas do, but the rural areas must make do with fewer resources.

Mr. Speaker, I am fully committed to honoring and providing for our law enforcement officers from all regions of our Nation. I am hopeful that we all remember them not just during National Police Week but year around. They provide immeasurable service to us and I hope that we remember them when it really counts.

To all law enforcement officers, I thank you and may God continue to bless you and your families.

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The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Louisiana (Mr. ALEXANDER) is recognized for 5 minutes.

(Mr. ALEXANDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Tennessee addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MATHESON) is recognized for 5 minutes.

(Mr. MATHESON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 5 minutes.

Mr. HOEFFEL. Mr. Speaker, we should have no more talk about resignations. We should not talk about Donald Rumsfeld resigning his office. We should not let him resign his office. He ought to be fired. He ought to be fired, and George Tenet ought to be fired. I do not know that there has ever been two Cabinet Secretaries in the history of this Nation that have given their President more bad information,

more bad intelligence, more bad advice than Don Rumsfeld and George Tenet. And while the President is at it, he ought to clean house at the Pentagon. He ought to get rid of Paul Wolfowitz and Doug Feith, all of the architects of this failed policy in Iraq.

It is astonishing to me that the President is so loyal to people who have given him such bad advice. If you look back on the failures in Iraq, and I speak as one who voted in favor of the military authority that the President sought a year and a half ago, I voted "yes" because I believed we had to disarm Saddam Hussein of weapons of mass destruction. I am now convinced that I was misled, that the Congress was misled, that the people of this country were misled.

And you look back on the failures of intelligence and planning and advice from George Tenet and Don Rumsfeld and the list is very long. The weapons of mass destruction have not been found. The intelligence was bad coming from George Tenet, and the intelligence was hyped by Don Rumsfeld and the other civilian leadership of the Pentagon. Don Rumsfeld tried to do this war on the cheap. We did not send enough troops over there. General Shinseki said we needed several hundred thousand troops. He was virtually run out of the Army for saying so. He was right. We have got 135,000 troops in Iraq today, and we have not secured the country. The country is not secure. Clearly more security is needed. We tried to do this on the cheap without enough troops, without enough armor.

The troops left their armor at home, and our soldiers have been sitting ducks killed by roadside bombs that armored personnel carriers and tanks would not have to worry about but unprotected Humvees, which is what our troops have been given, do have to worry about.

There was no plan to deal with the looting. There was no plan to deal with the violent insurgency that has come up. We were told by Don Rumsfeld we would be greeted as liberators. Instead, we have become occupiers. Donald Rumsfeld believed Ahmed Chalabi and the other leaders of the Iraqi National Congress. Chalabi, one of the great four-flushers of all time. You ask me what a four-flusher is. I am not sure. It is a phrase my grandfather used to use. I think it has something to do with having four cards to a flush and that you cannot trust a guy who is a four-flusher. Well, that is Ahmed Chalabi. He is a spinner. He has not given us good advice. But our leadership believed him in the Pentagon and we have paid a heck of a price because of it. We have no notion of how long we are going to stay or any notion of how much we must pay.

And now the prison abuse scandal has come. Clearly, the privates and the sergeants were completely wrong in the steps they took and they need to be punished, but I do not think the accountability stops with them. It goes

up the chain of command. Because the training was inadequate; the supervision was inadequate. There has been no accountability in the chain of command at this point. Secretary Rumsfeld did not listen to the International Red Cross who apparently started complaining about this a year ago. He did not listen to the Secretary of State who began complaining to the Pentagon and to Mr. Rumsfeld several months ago. The Secretary of Defense did not read the report that he ordered. And he did not even tell the President. He did not even tell the President.

We do not need to stay the course in Iraq, Mr. Speaker. We need to change the course in Iraq. We are not winning. We want to create a stable and peaceful Iraq with a representative self-government, hopefully a democracy. There can be no reconstruction without security. There can be no transfer of authority and government without security. There can be no elections without security. There can be no democracy without security. And there is no security in Iraq today. We cannot stay the course. We must change the course.

We have three choices. We can pull out, declare victory, or say it does not matter and pull out; and I think that would be a great mistake. We cannot leave Iraq worse than we found it. We did get rid of a murderous tyrant, and I am glad we did, but we cannot leave Iraq in shambles. We can stay the course, but we are not winning. We won the military victory, but we are not winning the peace. Or we can mobilize more troops, international troops from NATO and Arab nations preferably, our troops if necessary, in order to stabilize that country and achieve our goals.

REACTION TO CYPRUS REFERENDUM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, last month the Greek Cypriot majority on the island nation of Cyprus overwhelmingly rejected a U.N. plan that forced them to put too much faith in the government of Turkey. Mr. Speaker, let us be clear. The Greek Cypriot people did not reject reunification of Cyprus. They rejected a proposal by U.N. Secretary-General Kofi Annan, a proposal they determined was not in the best interests of their nation as it prepared to join the European Union.

After the Annan plan was defeated, Cypriot President Papadopoulos said, "I should emphasize that the Greek Cypriots have not rejected the solution of the Cyprus problem. They are not turning their backs on their Turkish Cypriot compatriots." President Papadopoulos once again called upon Greek Cypriots and Turkish Cypriots to work together for a united Cyprus. Both the United Nations and the Bush administration must realize that the

Greek Cypriots are still dedicated to reunification, but they were simply not willing to accept a plan that forced them to accept the good will of the Turkish Government.

Mr. Speaker, before last month's vote, I voiced concern over some of the provisions included in the final Annan plan. I think the overall vote shows who benefited most from this plan, the Turkish Cypriot people and Turkey. I met with the Secretary-General in March to express my concerns with some of the proposals he was planning to include in his final plan. During that meeting, I strongly recommended that the United Nations maintain a presence on the island as long as the Turkish Army remained there.

The Secretary-General assured me that U.N. forces would remain on the island for a considerable amount of time, but his final plan allowed Turkish troops to stay indefinitely without an international presence. This was simply unacceptable. Like most Greek Cypriots, I was extremely worried about the actions Turkish troops would take with the absence of a neutral international presence to keep them in line. I was also concerned that Turkey would not abide by the final agreement and its troops would contribute to further instability and insecurity.

Mr. Speaker, the Annan plan should have called for the removal of all foreign troops and should have eliminated the right of foreign powers to unilaterally intervene in Cyprus. Greek Cypriots were concerned that the plan did not contain ironclad provisions for the implementation of the agreement, especially for those provisions where Turkey's cooperation was necessary. The Cypriots were forced to take the Turkish Government at its word that occupied land would be returned to its rightful owners 3 to 5 years down the line. The Cypriots were forced to take the Turkish Government at its word that the Turkish Parliament would ratify the treaty. And, as I have said, the Cypriots were forced to believe that Turkey would remove its troops according to the timetable in the Annan plan and were forced to deal with the fact that Turkish troops will remain in Cyprus forever with Turkey having the unilateral right to intervene at any time.

Greek Cypriots were also concerned that the Annan plan denied the majority of the Greek Cypriot refugees the right of return to their homes in safety. They were also concerned the plan imposed on them the liability to pay large claims for the loss of use of properties in the Turkish occupied area.

Mr. Speaker, all of these concerns led to the rejection of the Annan plan by the Greek Cypriots in the referendum. But as the Greek Cypriot President said, the Greek Cypriots are not turning their backs on the Turkish Cypriots. Greek Cypriots will continue to hold out hope that a common future for all Cypriots within the European Union will eventually be a reality, but

it must happen without any third parties, like the Turkish Government, dictating that future.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

SMART SECURITY AND IRAQI PRISONERS OF WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I was absolutely outraged last week when along with the rest of the world I learned that U.S. service members and private American contractors in Iraq had abused and tortured Iraqi prisoners of war and had forced them to commit heinous sexual acts. War is devastating, it is terrifying, but even in war there is no place for actions such as these. The abuse inflicted by a few soldiers is causing much ill will around the world. What is worse, I feel it will further embolden our enemies to commit acts of terrorism against the United States and horrific acts of abuse against our own troops should they be captured.

But almost equally reprehensible was the response of our Commander in Chief to the abuses that took place at Abu Ghraib, the prison in Iraq. Instead of claiming full responsibility for the actions of members of the United States military, President Bush expressed his regrets that the abuses had occurred while distancing himself from those abuses. At another time, President Harry Truman did not try to distance himself from abuses that occurred during his watch. In his January 1953 farewell address to the American people, President Truman made an important assertion in that regard, saying, and I quote, "The President, whoever he is, has to decide. He can't pass the buck to anybody. No one else can do the deciding for him. That's his job." President Truman is also the person who made famous the quote, "The buck stops here." President Bush would be well served to take notice of this quotation which Harry Truman thought was so important that he kept it as a sign on his desk in the Oval Office.

Mr. Speaker, the buck does not stop with the young woman who was photographed holding an Iraqi prisoner on a leash. The buck does not stop with Brigadier General Jannice Karpinski, the U.S. general in charge of running the prisons in Iraq. The buck does not stop with Lieutenant General Ricardo Sanchez, one of the highest-ranking military officers in Iraq. The buck does not even stop with Donald Rumsfeld,

the Secretary of Defense. The buck stops with the Commander in Chief. At the moment, that happens to be George W. Bush. That is where the buck stops. Remember what Harry Truman said at his 1953 farewell address. He said the President cannot pass the buck to anybody.

There has to be a better way, because the Bush doctrine of unilateralism and passing the buck within his own administration has been tried and it has failed. It is time for a new national security strategy, one that emphasizes brains instead of brawn, one that is consistent with the best American values. I have introduced legislation to create a SMART security platform for the 21st century, H. Con. Res. 392. SMART stands for "sensible, multilateral American response to terrorism." SMART treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships. It controls the spread of weapons of mass destruction with a renewed commitment to nonproliferation. And it aggressively invests in the development of impoverished nations with an emphasis on women's health and education.

Remember, the buck stops with the Commander in Chief, the President of the United States. No more passing the buck, Mr. President. Instead, let us rely on the very best of America, our commitment to peace and freedom, our compassion for the people of the world and our capacity for multilateral leadership. Let us be smart. Let us be smart about our future. SMART security is tough, it is pragmatic, it is patriotic, and it will keep America safe.

RECOGNIZING THE INVALUABLE CONTRIBUTIONS MADE BY PEOPLE OF INDIAN ORIGIN TO THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I come to the House floor tonight to speak on House Concurrent Resolution 352, legislation that I am proud to have introduced which gives much deserved recognition to the many invaluable contributions made by the people of Indian origin to the United States. Since the earliest days of our Republic, citizens of Indian origin have emigrated to our Nation in the pursuit of freedom and prosperity for themselves and their families. As American citizens, they have integrated into American society, and they have made extraordinary contributions to the United States, helping to make our Nation a more efficient and prosperous country.

□ 2015

Indian Americans greatly value education and have made many significant contributions in the fields of law,

science, technology, business development, public service, literature, and the arts, just to name a few. They are our doctors; over 35,000 of them practice medicine in the United States. And they are our astronauts, professors, and business leaders.

There are over 2 million Indian Americans today who proudly call America their home, and they have become woven into the economic growth and social fabric of our Nation.

This resolution also honors the long history of democracy in India, the most populous democracy in the world; and it reaffirms our Nation's commitment to working with India towards our mutual interest of global peace, prosperity, and freedom. India and its 1 billion citizens greatly value the close relationship that exists between the United States and their country, and they continue to strengthen their ties with us based on their shared value and shared security concerns.

The United States and India are strategic partners; and as the Speaker knows, India was one of the first countries to offer the United States its support following the tragic September 11 attacks. And today India remains one of our closest allies in the war on terrorism.

We must continue to increase trade and cooperative economic efforts with India and together strive to increase prosperity among all nations of the world. As two democracies working together, we can make dreams become a reality.

I also want to recognize the efforts of Dr. Krishna Reddy, president of the Indian American Friendship Council, for his efforts in building and promoting strong bonds of friendship between Indian Americans and all Americans.

Finally, this resolution acknowledges the benefits of working together with India towards promoting global peace, prosperity, and freedom. Once again, I am proud to have introduced this resolution, and I am very pleased that the House of Representatives has passed it overwhelmingly today. I thank my colleagues for that. Doing so sends a clear message to both the United States and India that we share common values, honor contributions from both sides, and treasure our mutual friendship.

H. CON. RES. 352

Whereas India is the largest democratic country in the world and enjoys a close and mutual friendship with the United States based on common values and common interests;

Whereas people of Indian origin who have for decades immigrated to the United States have made extraordinary contributions to the United States, helping to make the United States a more efficient and prosperous country;

Whereas these contributions have spanned disciplines ranging from science, technology, business development, and public service, to social justice, philanthropy, literature, and the arts;

Whereas generations of doctors and nurses of Indian origin have attended to the sick in large cities as well as in rural regions of the United States that are otherwise underserved;

Whereas people of Indian origin have designed defense systems that protect United States naval ships while at sea, and have contributed to engineering, designing, and participating in the United States space shuttle program, at great personal sacrifice;

Whereas people of Indian origin have invented many of the technologies that power the computer and the internet, have created and directed laboratories that produced significant breakthroughs in modern medicine, and have taught at, and are leaders of, many United States institutions of higher learning;

Whereas people of Indian origin have made invaluable contributions to the vitality and viability of the United States economy through creative entrepreneurship and leadership in both large and small businesses;

Whereas people of Indian origin have shared and integrated their rich culture into the fabric of American daily life;

Whereas trade with India integrates a democratic country of more than one billion people into the flow of commerce, offering the United States a large and rapidly growing market and unlocking vast reservoirs of talent;

Whereas the United States is India's largest trading partner and a major source of foreign direct investment and foreign institutional investment in India;

Whereas United States exports to India are growing at 25 percent, making India one of the fastest growing foreign markets for United States goods and services;

Whereas India's industrial tariffs have fallen from 150 percent in 1988 to a peak rate of 20 percent today;

Whereas United States exports to India will accelerate as India continues reducing tariffs and instituting liberalization measures in its trade and investment regime, thereby expanding the trade relationship of the two countries and bringing mutual benefits;

Whereas India has been a key partner in the war against terrorism;

Whereas India and the United States have agreed to increase cooperation in the areas of nuclear activities, civilian space programs, high-technology trade, and missile defense;

Whereas multi-faceted cooperation between India and the United States will strengthen the bonds of friendship and commerce between the two countries, lead to the peaceful use of space technology, and increase global stability and security; and

Whereas United States efforts, whether in combating global HIV/AIDS, pursuing nuclear non-proliferation, promoting democracy, enhancing stability of the world economy, eliminating poverty, fighting terrorism, and expanding and strengthening global trade, will be more effective and successful with India as a strategic partner: Now therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) honors the contributions of people of Indian origin to the United States, and

(2) is committed to working together with India towards promoting peace, prosperity, and freedom among all countries of the world.

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

(Mr. ETHERIDGE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE MURDER OF EMMETT TILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, I rise this evening to speak on the Justice Department's recently announced initiative to partner with the State of Mississippi in investigating the brutal murder of Emmett Till in the sham Jim Crow trial that subsequently acquitted the perpetrators of this heinous crime.

Given the significance of this tragedy in American history, I accepted the Justice Department's announcement with mixed feelings. On the one hand, I felt relief. But on the other hand, I thought to myself it is about time. This investigation should have been conducted at least 49 years ago.

On August 28, 1955, in Money, Mississippi, Roy Bryant and his half brother J.W. Milam kidnapped 14-year-old Emmett Till from his uncle's home where he was staying for the summer. Bryant and Milam brutally beat Emmett Till, took him to the edge of the Tallahatchie River, shot him in the head, fastened a large metal fan used for ginning cotton to his neck with barbed wire, and pushed the body into the river. Emmett Till's body washed ashore some 3 days later.

Emmett's mother, Mamie Till, insisted on leaving her dead son's casket open at the funeral on the south side of Chicago. She did not let the coroner alter Emmett's deformed face, and for 3 days his casket lay open for anyone and for everyone to see. Photographs of Emmett's body were published in newspapers and magazines around the world. And after an all-white, all-male jury acquitted Bryant and Milam for the murder, the world became outraged.

Two years later, Milam and Bryant subsequently and candidly, and truthfully I might add, admitted their crime to *Look Magazine* and went into exact detail on how they committed their heinous crime.

A hundred days after the murder of Emmett Till, Rosa Parks refused to give up her seat on a bus in Montgomery, Alabama, and the American civil rights movement was born. In the aftermath of the trial, Mamie Till begged the Justice Department and President Eisenhower to investigate her son's death, but her pleas were ignored.

Almost 50 years later, on February 10, 2004, I introduced a bipartisan congressional resolution, H. Con. Res. 360, calling upon the Justice Department to investigate the murder of Emmett Till and the sham trial that acquitted Bryant and Milam. Fifty-four Members of

the House of Representatives, including the entire Congressional Black Caucus, cosponsored my resolution with the hopes that Ms. Mamie Till-Mobley, who died in January of last year, could finally realize her profound wish that Emmett's murder be investigated. It is too bad that she is not alive today to see the commencement of this investigation.

The facts of this case are beyond dispute. The murder of Emmett Till has been the subject of numerous historical accounts, including a high-profile documentary on PBS's "American Experience" series, a recently published book on Mamie Till-Mobley, and a yet-to-be-released documentary by a young African American film-maker who has been working on this project for some 9 years. Many of us regard the cruel and senseless tragedy of Emmett Till as the spark that ignited the civil rights movement. However, notwithstanding the facts in the history books, the official account of the murder of Emmett Till delineates Bryant and Milam as innocent men who were acquitted in a fair trial. Worse, it is still possible that other co-conspirators in this crime are still alive.

Mr. Speaker, I call upon the Justice Department to do a thorough job and leave no stone unturned. If there was official misconduct by Federal or local officials, they should not be immune to any possible prosecution. Not only was Emmett Till's senseless and savage murder a crime, but the subsequent official trial that freed Milam and Bryant was also a crime.

According to yesterday's edition of the Chicago Tribune, witnesses are now surfacing that suggest others may have been involved in the murder. Though Milam and Bryant were the two criminals on trial, some witnesses say they saw up to five men with flashlights and guns at the scene of the crime. It is important that the Justice Department investigate these possible leads and others as they go forward with Mississippi and county officials.

Bryant and Milam have since died, but justice is never too late. While we will never be able to erase this inhumane and cruel episode from the annals of American history, we can certainly set the record straight. Not only may coconspirators to the crime and trial still be alive, we can also have an official public account of what exactly happened. Reopening an investigation of a civil rights era murder is hardly unprecedented: the murder of Medgar Evers and the bombing of the 16th Street Baptist Church in Birmingham, AL, where four innocent young, black girls were killed are two cases upon which federal authorities reopened investigations resulting in arrests, prosecutions and convictions. Emmett Till deserves no less.

I call upon the Justice Department to do a thorough job and leave no stone unturned. If there was official misconduct by federal and/or local officials, they should not be immune to any possible prosecution. Not only was Emmett Till's senseless and savage murder a crime, but the subsequent official trial that freed Milam and Bryant was also a crime. Everyone and anyone who was involved in this criminal injustice should be fair game under a quality criminal investigation.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

(Mrs. CHRISTENSEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

IRAQ AND BRINGING JOBS BACK TO AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Kansas (Mr. TIAHRT) is recognized for 60 minutes as the designee of the majority leader.

Mr. TIAHRT. Mr. Speaker, tonight I am going to spend a little bit of time talking about how we are going to bring jobs back into America. But before I get to that topic, I want to mention a little bit about Iraq and the situation over there currently.

There has been a lot of handwringing in Washington, D.C. over what has happened in the Abu Ghraib prison. It was a horrible scandal that was wrong, it was sick, and we must hold those people who are responsible accountable. Court martials are currently going on. They will be open public prosecutions. There will be quick and severe punishment, and I think it is necessary that we get all of those responsible.

Recently in a hearing, I was able to listen to Major General Tagabu, who underwent the investigation; and he found that there is no documented approval of these actions. Quite the opposite. Everything that is documented within the Department of Defense says just the opposite. The Geneva rules and conventions will be followed. Proper procedures of handling prisoners will be followed. But yet in that prison, and it is an isolated case, there was a lack of training, there was lack of supervision, there was poor discipline among the troops; and the result was what we have seen in the media recently, including photos and videotapes that are available. But this situation will be corrected, and there is no coverup.

I think there is a silver lining in this dark cloud, though, that has been surrounding Iraq. The 130,000-plus troops that are in Iraq have been doing exemplary work. They have been carrying out their duty with great respect to the Iraqi people, and they have focused on the enemies of those people who hate democracy in the Middle East. They have done their job without shame, and they have conducted themselves in a professional manner. The leadership in Iraq has done an excellent job, as has the leadership in the Pentagon.

It is probably likely that the Secretary of Defense does not know how many traffic tickets were issued to members of the military this past week. There is a lot going on around the globe with approximately 3 million Americans in uniform. But yet when this was discovered, he acted quickly and sternly and brought this to the

forefront. I think Secretary Rumsfeld needs to continue in that position. He is the right man for this time. He is the right man for the job. We need his clear thinking and his firm leadership.

Now I would like to move on to careers for the 21st century, but I want to go into a little bit of history before we get into some specifics about how we are going to bring jobs back into America. Our economy has been suffering lately. In 1999, we suffered a tech bust, and we saw the stock market drop \$7 trillion in value and money came out of our economy. In November of 2000, it was the technical start of our recession, which was one of the shortest recessions in history.

But then on September 11, 2001, terrorists attacked America, and they plunged our economy into a deeper recession. But then we responded here in Washington, D.C. with tax relief. People did one of three things when they got a little extra money in their pocket. They either spent that money, which was a demand for goods and it is helping our economy respond; or they saved that money, which allowed money available for home mortgages, and we have seen one of the biggest expansions in the home market in recent history; or they invested it.

When that money was invested, corporations have then taken that money and built new plants and now are hiring people. In fact, in the month of April, jobs increased by 288,000. Over the last 2 months, there has been an increase of 600,000 jobs. Since last September, there has been an increase of 1.1 million jobs to our economy. In fact, today there are more Americans working than ever before in the history of our Nation. Today, according to the Department of Commerce and Dr. Kathleen Cooper, who is responsible for the 7,000 employees that collect this data, she tells us that today there are more Americans working than ever before in the history of our Nation.

But we can do better. What we want in America is high-quality, high-paying jobs; and here is how we are going to get there. One of the things that I found out when I was talking to local manufacturers in the Wichita area is that it is not about wages. The problem we are having with bringing jobs back to America is not about wages. In fact, the CEO of Raytheon Corporation in Wichita, Kansas told me that after he was working on an attempt to hold our wire harness manufacturing jobs for Raytheon in Wichita, Kansas, he worked with the union that came up with the best solution possible. He finally came to the conclusion that if his wages were zero, he would still have to do something about the excessive cost that he is facing.

Today, I met with a CEO of Converge Corporation. He told me that if he was going to build a building in America or build a building in the Philippines or in India, the costs are about the same. He convinced me that what we need to do to control costs and bring jobs in America is not about overhead.

So it is not about wages. It is not about overhead. It is about costs that are out of control for the CEOs, for the people who keep and create jobs here in America.

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Now, what are these costs? Where do they come from? Well, over the last generation, Congress, with good intentions, has passed legislation that has ended up with disastrous results.

The results have been that we have increased costs that cannot be controlled by the people who keep and create jobs, by the employers, by small business employers, by large corporations. Because it is things that are controlled by Congress. The CEOs and the small businessmen and the entrepreneurs and those who hire people cannot have a vote. The votes occur right on the floor of the House of Representatives.

Well, it is time that we change that environment. We have divided these costs into eight separate issues, and this week we started the first of 8 weeks to deal with these costs so we can bring back jobs into America. The eight issues are health care security; bureaucratic red tape termination; lifelong learning; trade fairness and opportunity; tax relief and simplification; energy self-sufficiency and security; research and development; and ending lawsuit abuse and litigation management.

Health care security we will come back to, because that is the issue we are dealing with this week. But let me give you a little snippet of what we are going to deal with in weeks to come.

Next week we will be dealing with bureaucratic red tape termination. Over the last generation, Congress has put many agencies in place that have forced continuation of an increase in paperwork to be submitted, and it has become unrealistic, impractical, and an unnecessary environment that includes OSHA mandates; that is, Occupational Safety and Health Agency, OSHA mandates, and they are driving our industries and small businesses and health care systems to a grinding halt.

According to the National Association of Manufacturers, 12 percent of the cost of any product made in America is dealing with bureaucratic red tape.

Energy cost, we wonder why we have \$2 gasoline today. Well, our bureaucratic red tape has imposed regulations that cause our limited oil manufacturers to try to make boutique gasolines that are being shifted through limited pipelines, so we come up with temporary shortages. This week we have \$1.95 gas in Wichita, Kansas. So we have to deal with the bureaucratic red tape.

Following that, we are going to deal with lifelong learning. We are going to talk about job training and retraining so that we can have a highly skilled workforce. Now, our public school system has given generations of Americans the tools to pursue their dreams,

and it can certainly help prepare boys and girls for the demands of a new century.

But we must focus on those areas that are going to be in demand for us to stay in the lead. We must concentrate on science and engineering careers. Our bachelor programs and the production rates of scientists and engineers are among the lowest in the world today in America, and we must change that.

The next issue we are going to deal with is trade, fairness, and opportunity. We need to have a fair deal in the world market. We need to make sure that our exports are treated the same as everyone else treats exports. We should have equalizing tax rates. We should ensure balanced tariffs, and we should prevent currency manipulation. And we have to stop other countries from targeting certain industries here in America.

One example in Wichita, Kansas, is a company that builds handtrucks. Right now we are encouraging the Commerce Department to take up with the nation of China their attempt to try to force out handtruck manufacturers in America by flooding the market with under-cost handtrucks.

The same is with auto lift equipment, that equipment that lifts up automobiles so it can be worked on in gas stations and auto repair shops, that is being targeted by China as well. That needs to be corrected.

The next issue we are going to deal with is tax relief and simplification. Right now we do not have a fair playing field for American industries. Our tax costs end up buried in our products and it drives up the cost of our products, and there is a way we can pull out some of those costs.

We also need to encourage the right incentives, like accelerated depreciation. That concept of accelerated depreciation will in fact get more products built and sold within America and it will help bring jobs back to America.

But we need equity in our Tax Code. We ought to look at something like the fair tax that is being proposed by the gentleman from Georgia (Mr. LINDER). It is a national sales tax that would give us great trade advantages. We would eliminate income taxes. When we move a car or something built in America overseas, that tax would stop at the border and we would make ourselves 22 to 25 percent more competitive.

The week following that, we are going to deal with energy self-sufficiency and security. We are going to talk about why we have \$2 gas. We are going to talk about stabilizing our energy system. We are going to talk about creating 700,000 jobs in America and strengthening our businesses.

Following that we are going to deal with research and development. America has always been in the lead. It has a history of attracting the brightest minds in the world and creating some of the best concepts and ideas. But we

are seeing a reduction in the number of papers submitted about research. We are seeing less money being available for research and development in America, and we need to change that around by providing incentives so we can apply knowledge into the public market and disseminate the technology that we develop.

The last week, the eighth week, we are going to deal with ending lawsuit abuse and litigation management. We have become a litigious society.

Our Nation was built on justice and our courts were structured to protect Americans, but that objective has become warped over the years. It has warped to the point where our legal system actually attacks our citizens and our way of life.

We have come to the point where the United States Congress has had to step in and prevent food companies from being sued, and distributors and restaurants from being sued, so that they are not liable for somebody eating too many cheeseburgers. It is amazing that we have come to this point, but litigation has turned against us and turned against our economy. It has driven up costs and it has driven jobs overseas.

If we could make some simple changes, a drastic change would be loser pays. It is the system that is prevalent in Europe today. They do not have the same high cost of litigation we have in America. Loser pays would be the obvious solution. If that is not achievable, then we ought to outlaw frivolous lawsuits and return the court's attention to upholding the laws of the land.

One commonsense change that is part of our history is the statute of repose that was put in place in 1994 by Congress. The result in the aircraft industry, what it did basically was limit liability for single-engine aircraft to 18 years. In other words you could not sue them for design flaws after 18 years. For heavy jets it was 23 years. You could not sue the manufacturers for design flaws after 23 years. I mean, if an airplane can fly for 18 years, you would think all the design flaws would be out of it. I do.

But anyway, the statute of repose created 4,000 jobs in south central Kansas. It increased the working population of aerospace manufacturing in that area by 15 percent, and it restarted a single-engine production line in Independence, Kansas. That same concept can be applied to other manufacturing in America, and it can see a parallel increase in jobs.

So, let us go back to health care security, the issue we are dealing with this week. I have got some charts that I think illustrate very closely the point we are dealing with.

In this first chart, we have a lady standing at the door and we have a stork delivering a pizza. He says, "I used to deliver babies, but the insurance got too expensive." So he can no longer deliver babies anymore, he is delivering pizza.

This chart shows the States in America where a medical liability crisis exists, sort of a national view. The white States are the six States that have taken care of their medical malpractice laws and are currently in a pretty good situation. The 19 States in trouble are the ones in red. That is where health care costs have dramatically gotten out of control.

Here is a good example between a yellow State, which is showing some problem signs but not there yet, and a red State. We have Kansas, where I am from, the Fourth District of Kansas, and then we have Missouri right next door, a red State, or a State in crisis.

In that State, in Kansas City, where we have Kansas City, Missouri, and Kansas City, Kansas, the physicians in Kansas City, Missouri, had a white-coat flight day, where they walked across the State line to emphasize the point that if you do not deal with medical liability costs, you are going to lose physicians. And physicians have been migrating, closing their offices in Kansas City, Missouri, and opening them up in Overland Park and other places on the Kansas side where they have better protection for the liability crisis in medical malpractice.

Time magazine, they emphasized the problem in one of their issues. It shows a physician's white coat with a tie, and no one inside the shirt or the jacket. It says, "The doctor is out. Why so many patients are losing their doctors to the rising cost of malpractice."

It gives how much it costs. For a neurosurgeon, the annual cost for medical malpractice is \$71,200. How many surgeries does he have to perform just to pick up the cost of his insurance? For OB-GYN, the average is \$56,546. How many babies have to be delivered just to pay the liability insurance? Emergency physicians, \$53,500; orthopedic surgeon, \$38,000; general surgeon, \$36,354. It has become a crisis in America, and what we are seeing, because that crisis is signs like this where at Phoenix Memorial Hospital the emergency room was closed.

It has also found its way into our manufacturing process, and, again, it is part of the problem that is driving jobs overseas. You know, in America today, we have seen some jobs come in, insourcing jobs. For example, BMW is now manufacturing automobiles in America and exporting them to Germany. Honda builds automobiles here; Toyota, Mazda, a lot of other companies build cars, like GM, Ford and Saturn. But this is a typical, average automobile in America.

Well, how much of that car does it take to cover the cost of health care for the auto manufacturers? Again, this is just a typical auto manufacturer.

If you look at the cost, the cost buried into the cost of every automobile is about \$1,300 on an average and up. Thirteen hundred dollars. Now, that is the cost of the wheels and the tires and the frame of the automobile. So, this

much of an automobile showed in the lower left-hand corner, right-hand corner on your television screen, to those here in the House floor, that frame which is the outside of the car and the wheels and the tires, that is the costs that are buried into health care.

If you extracted the health care costs, you would have the frame left over with the motor and the undercarriage and the seats and the dashboard and all of that, but you would not have the outside of the car and you would not have the tires. It is an expensive proposition to cover the cost of health care. And that is part of the reason why it has been excluded, or it has been driving up costs and driving jobs overseas.

The Kansas Hospital Association tells me that if we cannot revise some of the problems they are having with paperwork, today the costs they are absorbing are the equivalent of what they provide in health care. In other words, for every hour of health care they provide, it requires an hour of paperwork to comply with all these health care burdens that have been placed on them.

We have also been seeing a lot of escalating jury awards that have been very difficult in providing, and we talked about that with the Time magazine article. It has required a lot of additional costs for physicians, and that has increased the cost of health care. And there has been very little means for us to control those costs.

The problems have been, financially, percentage-wise they have increased just in 2003 by 12 percent or more. That is the fifth consecutive year of double-digit increases, and it has doubled the health care costs for employers since 1999.

By decreasing these costs, we could see an increase in jobs in America. With each percentage point rise in health care insurance costs, it increases the number of uninsured people in America by 300,000 people, according to the Congressional Budget Office. That means that if we can hold down costs, we will see less uninsured people in America.

Medical liability insurance premiums have increased 505 percent since 1976, and that has driven many doctors out of the profession, closing some specialty practices in entire regions and placing an unnecessary financial burden on the Nation and its employers.

The average jury award now is \$3.5 million, which is up by more than 70 percent since 1995. The increasing cost of insuring doctors against petty lawsuits is severely reducing the quality and access of America's top-rate health care.

We have got a lot of problems to deal with here. One of the statistics I wanted to bring out here is the National Association of Manufacturers. They have calculated the benefit it costs for American companies, and it puts us at a 5.5 percent disadvantage compared to our nine largest trading partners.

Not only is the United States spending more on health care annually, but 7.7 percent of our gross domestic product goes into health care from our private sector. That is effectively matched by the public sector, so it is now 14 percent of our gross domestic product.

We have been blessed with the best health care system. We must make it affordable and available to all of us.

So we have come up with three specific pieces of legislation this week. I have joining me this evening the gentleman from Minnesota (Mr. KENNEDY), and he is going to talk to us about his view of the issues that we are facing to make health care more affordable and help us to bring jobs back.

I yield to the gentleman from Minnesota.

□ 2045

Mr. KENNEDY of Minnesota. Mr. Speaker, I thank the gentleman from Kansas; and I thank him for his passion for keeping jobs here in America, for growing jobs in America, for understanding what it takes to have that happen.

As I go around my district and talk to businesses that are growing those jobs, health care costs are one of the top issues that they talk about to us. The gentleman has hit right on many of the key issues of medical malpractice driving doctors out of practice, getting them to do what they would tell you is unnecessary practices, just to make sure that they are covered in case something happens. We are going to get into talking about health savings accounts and flexible savings accounts and how we can really help individuals better control costs, and how association health plans can help associations of businesses that do not really have a good program available to them provide that to their many, many employees.

Mr. Speaker, there are two different ways that people think about how do we control costs long term. Some would suggest that we need to move towards a single-payer plan where one government entity is paying all of the health care costs across the country. We know what that looks like. That looks like government rationing. That looks like standing in a queue and waiting forever to get a basic procedure. We see that up in Canada. Canadians come down here to America to get their health care because they know what that looks like.

What we are talking about here is empowering individuals, putting individuals and their relationship with their doctor in charge of their health care, having them control the decision, having them have the say and the knowledge and the ultimate give-and-take on how to move forward. I look forward to talking about how each of the things we are talking about here really addresses that issue.

Mr. TIAHRT. Mr. Speaker, if the gentleman would continue to contribute

here, the gentleman is from Minnesota, up there bordering Canada. I have heard reports from our northern cities like Seattle, Minneapolis, Detroit, Buffalo, that we see an influx of Canadians coming in to get the health care coverage that has been denied them in Canada because their socialized health care system is rationed. They have to wait too long for procedures, or that procedure simply is not available because of their age or weight restrictions.

Has the gentleman noticed that occurring in Minnesota?

Mr. KENNEDY of Minnesota. Mr. Speaker, that is absolutely the case. Health care will be allocated by some means. If it is totally free, totally available in a single-payer plan, then the government will come up with restrictions. We have too much today, even in this country, of government deciding to ration what they are going to pay for health care, ration the procedures, and having businesses make too many of those decisions.

One of the most beautiful things that we have done to advance health care empowerment of individuals is the health savings accounts that we passed as part of the Medicare reform last year. What this does is if you have a high deductible plan, a minimum of \$1,000 per person, \$2,000 per couple, it can be up to over \$2,500 per person, \$5,000 per couple, you can put that amount away, tax-free, into an account, use it for health expenditures tax-free. If you do not use it, you can roll it over, earn interest on it tax-free, and build up a nest egg that you can use in your senior years. But what this means is that rather than some impersonal party getting the bill that you never see for your health care costs, you can know what it costs, shop for the best price, and make decisions.

The best example I have is the young woman that helps me in my office on health care matters said that she once twisted her knee, and they had an MRI done. That MRI costs \$1,500, and they found nothing. And she said, you know, if I had a health savings account and that was my \$1,500 being spent, I might have had a simple x-ray done; and if nothing was broken, I would walk on it for a week before I decided I was going to spend another \$1,500.

It is those types of decisions made over and over again that will affect health care costs; and we have seen when these types of programs have been put in place in businesses, they have dramatically reduced costs while, at the same time, they are giving individuals better care and better control over their care.

Mr. TIAHRT. Mr. Speaker, I think that the gentleman would agree that we need to have more transparency in the cost of health care so that consumers can make better decisions; also, so that physicians can make better decisions.

One of the gentlemen that I spoke with is a physician who has retired

from running a surgical group. He said when he was just a surgeon, he would order a lot of tests because he thought they were good data points for him to sort of mull over and make a decision, and he gave me the example of an x-ray and an MRI. He said, quite often, you need one or the other and occasionally, you need both; but for most information, especially in his type of work, he thought that an MRI is the most productive for him, but on occasions, x-rays. He said that it was very difficult for him to determine where these costs were going until he started looking down as the manager of this surgical group and saying, what are driving my costs? He realized that all his doctors did the same thing that he used to do. They would order every possible test as data points whether they were necessary or not, and that transparency for him made him tighten up his procedures and lower the costs of health care. I think if consumers had good, clear transparency in the costs that were involved, they also would make good decisions, and health savings accounts would help consumers have more control over their health care.

Before we go on to these three bills that we are going to deal with this week as part of this Health Care Security Act, I wanted to mention my first-hand experience and how it relates to why I think socialized medicine or a single-paid plan would not be right for this country, because it does end up in the rationing of health care.

My father is 85 years old. I am very proud of him. He is a World War II veteran. He served in Heiwajima during World War II. A year ago January he had trouble with his heart and went in for open heart surgery. It was a difficult month. He spent 3 weeks in the hospital. It was touch-and-go for a couple of weeks. We worried about it a great deal. But he came out very strong, and we still have him today. He is very active, and he travels still frequently and is a productive member of our society. But he would not have received that health care treatment had he lived in Canada. He would have been above the age of eligibility for open heart surgery. Even if he was within the age requirements, right now the wait is 6 to 8 months for open heart surgery in Canada. Can my colleague imagine somebody who has had a borderline heart condition or even a heart attack and they say, well, yes, we know you had a heart attack and if you can hold on for another 6 months, we will get you right in.

That is why they have people crossing the border and coming to America to get health care, because it is the only place that it can be provided. And because of that, because of our excellent health care system we have today, I still have my father. I get to talk with him on the phone, I get to see him on holidays, and I get to gain the wisdom that he is passing on to me and on to my children. It is because of our health care system that I still have him.

Mr. KENNEDY of Minnesota. Mr. Speaker, I can tell my colleague that the health savings accounts let your father and your family be in control.

If a young person starts out and they are putting away the maximum amount you can into a health savings account and they live a healthy life and they spend their money frugally for health care costs, they can build up a pretty significant nest egg by the time they get to be your father's age. When you talk to people approaching their senior years, making sure they can have that control over their medical life and make the medical decisions that they want to are vitally important to them.

That is what I think these health savings accounts will do, ultimately. If they can build up \$100,000 or \$200,000 of a nest egg over a lifetime, they can make the decisions and have the resources for whatever the health care plan is saying to get that kind of treatment. If they have to go into some type of senior care rather than being forced to spend their way to poverty before we do anything in terms of long-term care, they can work with their children and say, hey, listen, I have this nest egg, so that you can buy the services I need, buy home health care and take care of me, and here is the resources for it.

So I think the flexibility, combined with the market-based services availability we have here in America, is vitally important.

I would also say, if you look to controlling costs, which is what we are talking about here with growing jobs and getting these costs under control, if you look at the growth in costs that we have experienced, whether you are a public or private plan, they are straight up. But if you look at what it is for cosmetic surgery, which is about the most personal and invasive surgery there is, those costs are almost flat.

Now, why are they flat? They are flat because the market is involved. If you look at Lasik eye surgery, the costs are down, because you have both the combination of the market and technology bringing that down. That makes everyone's costs more affordable. That makes our jobs more competitive here in America, and it makes whatever surgery you or your father are going to be having later on in life something that is more likely to be within their means. It is a great move forward, and a step that we are building on with the steps we are taking this week.

Mr. TIAHRT. Mr. Speaker, the gentleman makes a very good point about where the free market is involved we see no increase in health care costs. Dr. Greg Ganske, who was elected in 1994 to the United States House of Representatives from Iowa and now is back in private practice, told one of our other classmates from the class of the 104th Congress that right now, when somebody has selective surgery, and he is a plastic surgeon, when they have selective surgery, they call around to get

three or four quotes. He said, we all know in Des Moines, Iowa, who is charging what because we hear it from our customers. And because of that, the growth in costs for plastic surgery has been flat over the years. If you compare that to the health care costs that are managed by these big insurance companies, by Medicare, by Medicaid, which is managed by the government, then we see a continual increase in costs.

So we have a situation where health care costs that are available for small businesses, for example, are going up 12 percent per year for the last 6 years. They have doubled since 1999, and it is a continuous increase, much faster than the rate of inflation; and yet where the free market is involved, then we see a reduction in the growth and sometimes it is very flat.

Mr. KENNEDY of Minnesota. Mr. Speaker, we have also added other things in the Medicare bill that we just passed to get us going in this direction. We have strong incentives and encouragement for health care providers to do electronic prescriptions so that we not only have quality because we cannot always read the doctor's signature, but we have the ability to have a travelocity.com approach to getting that prescription. We also have strong incentives and requirements for increased quality reporting; and what we ultimately need to get to is, like you would with any other kind of product you are buying, where you can see it, call it up on the Internet: I am looking for this type of procedure, here is the ranking of the providers in my area, here is what each of them is costing, here is what the quality ratings are on them. Because if I were to look for this podium and want to buy a podium, the market offers me an endless variety of podiums and sizes, colors, styles, shapes, materials in every single product category imaginable except where we try to keep the market out, such as in education, in transportation, frankly, and in health care.

We have got to take away the barriers to providing quality, affordable services to our people, and that is exactly what we have done with the reforms that were part of the Medicare prescription drug bill. It is exactly what we are talking about in the additional reforms we are going to be passing this week in the House.

Mr. TIAHRT. Mr. Speaker, to illustrate the transparency that we have been talking about and what impact it has and the free market on prices, we have some places where you can buy drugs over the Internet and elsewhere and the prices they were on selected prescriptions.

This chart that I am holding in my hand is based on prices as of May 4. We can see some of these red lines very clearly where they extend out here for about \$1,400 per year is the cost of those prescriptions.

After 1 week of having transparency and visibility in the marketplace, the

shift is very dramatic. The same set of companies, Walgreen, Costco.com, drugstore.com, et cetera, what the free market has done is reduced the prices on the top line, which is the Primary Care Alliance, the costs were nearly \$1,400. Now, because of transparency in the free market system, it is down to \$1,000, a 40 percent reduction. We can see all of the costs are now coming into line, and that is the impact of transparency and the impact of the free market system.

I think that what we can say safely is that when we have the ability for people to make market decisions, they will make good decisions.

□ 2100

They will bring costs down. In this case, it is prescription drugs, but also it occurs in health care costs. I think that is very important.

Mr. KENNEDY of Minnesota. Mr. Speaker, I would just compare this to how you get your auto insurance. When you buy auto insurance, your auto insurance does not cover filling up with gas. It does not cover the oil change. It does not cover the car wash. It does not cover a whole lot of things.

It covers when you have a major accident and you have a major expenditure, and because of that car insurance, although when you have four teenagers like myself it can be pretty steep, it still has not had the type of increases that we have seen in health care.

We need to have a similar type of approach with what the health savings accounts provide which is basically saying we have catastrophic coverage. You and your employer, either one of you, or your family members, can contribute to the health savings account. You are going to spend those dollars. You are going to shop for the cheapest place for nonemergency service for health care, just like you would shop for the cheapest place for gas which, oh, by the way, if we got this energy bill passed, as my colleague mentioned, would be lower, and this is the type of thing that we need do.

I would just say that one of the things we are doing this week is loosening up the restrictions on flexible savings accounts, and flexible savings accounts are similar to a health savings account, but they are employer offered. They allow cafeteria plans, put in their pretax, but they are not really used because it is a use it or lose it.

We have allowed the rollover option in health savings accounts. Why was it use it or lose it? It is use it or lose it because those that want to have a single-payer government plan know how powerful this approach can be, wanted to limit that. So we are allowing people that have flexible savings accounts offered through their employer. If they do not use it all, be able to roll over \$500 to the next year or take \$500 out and invest it in their own personal health savings account that they can carry with them wherever they go, and given that the average 32-year-old has

been at seven or nine different employers in their life, having that portable plan that is with you always should be a great comfort and a great benefit to them.

Mr. TIAHRT. We have under our Health Security Act this week three phases. It is a 3-point plan.

The first part of the plan is called the Small Business Health Fairness Act. It allows for consolidated risk pools. The House plan allows small businesses to create these association health care plans, and it gives them the opportunity to join together, through existing trade associations, to purchase health care insurance for their workers at a lower cost, and that is because 60 percent of the nearly 44 million uninsured Americans are employed at small businesses today and/or they are dependent on someone who is employed by one of the small businesses.

By allowing the creation of association health plans, we will significantly decrease the number of uninsured in America. The plan establishes eligibility requirements so that all AHPs, or association health plans, are required to offer fully insured or self-insured benefits certified by the U.S. Department of Labor. It encourages broad participation and coverage by prohibiting discrimination against any kind of certain high-risk individual.

It increases the bargaining power. Small businesses will see increased bargaining power with health care providers, more freedom from costly State-mandated packages and lower overhead costs by as much as 30 percent.

Insurers selling directly to small employers typically incur administrative costs of 20 to 25 percent. Under the plan that the Republicans have here in the House, AHPs will save small businesses an average of 13 percent on their employee health care costs.

AHPs also cover specific diseases, maternal and newborn hospitalization, and mental health issues. It requires that AHPs be financially responsible and have strong reserves, strong enough to fund any potential costs and other obligations.

So, one of the first things we are dealing with the short version is AHPs as they are known by, but really, it is the Small Business Health Fairness Act.

Mr. KENNEDY of Minnesota. These AHPs, or association health plans, are a critical link in lowering the uninsured. Just repeating what you said, 60 percent of the uninsured are employed by companies that really have a hard time getting availability of health insurance. By the time you sell to that small company, it is, as you mentioned, a very high overhead cost.

So many of these would want to pool together, provide a plan that is tailored for the type of employees they have, and lower their cost in a bargaining pool.

Who would these associations be? These associations are like we just had

the Realtors in visiting us today. The major issue they spoke to me about, saying Realtors are a lot of times independent contractors with some umbrella firm. They need to have negotiated lower prices that can combine this with the health savings accounts very nicely, but they need it to be able to offer insurance to Realtors.

Look at restaurants that have a wide variety of full-time and part-time employees. They could tailor a plan specifically for those, again meshed with a health savings account.

So these are the types of plans that are going to really help to let more small businesses offer insurance.

One of the things that is important to point out is I know the gentleman from Kansas represents a rural State and has significant parts of his district which are rural, just as I have. A lot of times in those rural areas, they do not really have options. In our State in Minneapolis-St. Paul, there are multiple health plans available, and there are three or four or five, or significant options and several other smaller options; but if we get out into small-town U.S.A., you do not have a lot of options.

This really has even a stronger benefit for those small businesses operating in the rural areas that can combine themselves with an association health plan that goes across State borders, pools businesses of character. And it just does not need to be businesses; this could be a religious organization, a nonprofit organization, a community service organization. The Lion's Club, of which I belong, could do an association health plan for Lion's Club members.

It opens up the amount of people participating, thinking about how can we offer services to those with a commonality. Having more options is exactly what we need if we are going to really grab control of these health care costs and reduce the number of people that are uninsured.

Mr. TIAHRT. Mr. Speaker, the second point of our plan and the way we are going to help reduce health care costs in America is called flexible spending accounts. That allows an employee to have some flexibility in his health care. It allows workers to direct their employers to deduct money from their paychecks to be placed in a flexible spending account. It is tax free, and it is to pay for health care expenses that they may incur during the year.

Employers are not restricted based on the size of their business on whether or not they offer FSAs as their choice interpreted so that employees are restricted by whether or not their employer offers the option. There are no health insurance requirements for the workers to open up an FSA. There is no minimum or maximum contribution limits. Money can be drawn from an FSA to pay most medical expenses. That money may not be used for long-term care or health insurance premiums, but it is a tax benefit to the employees. Workers could save on their

taxes because the amount committed to an FSA is subtracted from their wages before taxes are applied.

There are long-term coverage advantages. Thirty-seven million employees in America have access to FSAs, but few take advantage of them today because they have a use-it-or-lose-it rule. Currently, if you do not use the money that an employee puts into an FSA, that money is forfeited to an employer, and it is a huge disadvantage or two disadvantages. Quite often we will see employees will not get into it because of that.

Number two, they will get to the end of the year and they will see that money going back to the employer so they will have selective surgeries or they will have botox or something they do not really need, and again, it is driving up health care costs.

But under the plan, up to \$500 of unused funds in this new plan can be carried forward each year on an FSA and allow them to continue to invest in their future. If they do not use it, it is available for them in the future. Alternatively, up to \$500 of unused funds can be rolled over to a health savings account for eligible individuals.

So there are some real advantages to these FSAs. Because employees will have their money at stake, they will be more selective on the health care they receive. We will have less frivolous visits to emergency rooms or to physicians. I think people will start to use home remedies a little more. Right now, there is a tremendous amount of information on the Internet. All you have got to do is put in health care into some of the search engines on the Internet and you can find a lot of Internet Web sites that you can get information on. And I think people will start to use those to reduce their health care costs, save money, lower their taxes; and again, this is part of our plan to lower the cost of health care so we can attract jobs back into America.

The last of the 3-point plan is medical liability reform. This includes a speedy resolution of claims. Instead of having health care claims drag on and on, there is a fair accountability. The plan waives the degree of fault so that a person with 1 percent of the blame is not forced to pay 100 percent of the damages. This component eliminates the incentives to look for deep pockets, making one party unfairly responsible for another party's negligence.

This also has maximum patient recovery. It empowers the courts to maximize patient awards by ensuring that an unjust portion of the patient's recovery is not misdirected to his or her attorney. The plan prohibits attorneys from pocketing large percentages of an injured patient's award. The award is to go to the patient, not the attorney.

Full compensation for patients' injuries are allowed. There are reasonable limits on punitive and noneconomic damages. There are flexibility for

States that already have enacted damage caps. It respects those States' ability to enact these caps and enforce the damage caps.

It also has experts predict significant positive change from the reform. The plan would decrease premiums for medical malpractice insurance by an average of 25 to 30 percent according to the Congressional Budget Office.

The Joint Economic Committee study asserts that the number of Americans with health insurance would increase by 3.9 million if medical liability reform is passed. Specifically, the plan places reasonable limits on malpractice that would save from \$60 to \$100 billion each year and that would not have to be buried back into the rates.

It would allow American business to expand their operations through hiring, and it enacts sensible liability reform that would save American taxpayers at least \$30 billion annually by reducing the Federal health care spending.

I showed you the map earlier of the States. The white States, again, who are currently okay on this map, and California is one of the white States. They have enacted medical liability reform. They are a great model for it. The Nation's medical liability premiums have increased by 505 percent since 1976. California's has only increased by 167 percent since it passed its medical malpractice reforms in 1975.

An OB-GYN in California pays about \$57 annually for liability insurance while OB-GYNs in the crisis States, like Pennsylvania shown in the red over here, and Florida and Ohio, all in red, they pay about \$100,000 a year annually.

What it means to be a medical liability crisis State, these 19 States that are depicted in red, in Pennsylvania, Philadelphia's Methodist Hospital announced it would stop delivering babies and discontinue its prenatal program for low-income women.

In Florida, women are facing waiting lists for 4 months before being able to get an appointment for a mammogram because at least six mammogram centers in south Florida alone have stopped offering the procedure as a result of increased medical liability insurance premiums. This trend is troubling. There are a growing number of older people and less and less people are being provided with mammograms, according to Jolean McPherson, a Florida spokeswoman for the American Cancer Society.

In Arizona, a baby was born on the side of the road after a mother had passed her community hospital where the insurance crisis had closed the maternity ward.

In Nevada, more than 30 Las Vegas obstetricians have closed their practices in recent months, leaving the city with about 85 obstetricians to deliver more than 23,000 babies in the next year. Kathryn Moore, the director of

the State Legislation for the American College of Obstetricians and Gynecologists said, "If I was a woman planning a family in Las Vegas, I'd be very concerned. I would certainly think twice about starting a family."

Well, we want families to start in Las Vegas, and we think it is unfair that 85 obstetricians are going to have to handle approximately 23,000 births next year.

We need to do something about that, and what we have passed tonight, as a matter of fact, in the House is medical liability reform, and it is the first step on the road to lowering health care costs and bringing jobs back into America.

I think it is very clear that if you cannot support these three measures, you are turning your back on the people who want jobs in America, high-quality, high-paying jobs. The only way we are going to bring them back is lower health care costs. We cannot do it by socialized medicine. We know that does not work. We can do it by our Health Care Security Act, by lowering the costs, bringing jobs back into America.

□ 2115

Mr. KENNEDY of Minnesota. Mr. Speaker, I would also say to my colleague that, unfortunately, what we see here too much on this floor and what we hear is anger and complaining about health care costs going up, they are being harder for the average family to afford. We agree, but we do not hear very often, unfortunately, except with the great dialogue we have had here tonight, about what the solutions are. And I would like particularly my fellow Members from the other side of the aisle to talk about what their solutions are, talk about how you are going to control costs.

The uninsured is a huge issue. Besides growing jobs, each one of these proposals reduces the level of the uninsured. This is really the most effective way for us to reduce the uninsured.

I would also suggest one more piece in the puzzle, which includes my Fair Care Act, which I have introduced and am pleased to have 127 other Members joining me on. And if we think about it, right now, the uninsured can go into a hospital and get care; but it is through the most expensive vehicle possible, the emergency room, through the EMTALA law. We could provide for that service at one-fifth the cost in a community clinic, if we had an individual on some base level of insurance at least, and probably address the underlying problem of that cost much more efficiently, and let people live a healthier life by letting us also do a better job of controlling costs.

Because what happens when an uninsured comes into a hospital and is not paying for it? It ultimately layers onto the premiums for the insured and increases their costs. As my friend from Kansas mentioned, when the cost goes up more on the insured, it creates a vi-

cious, vicious cycle. My bill, to allow for a \$1,000 credit per person, \$500 per child, up to \$3,000 for a family, refundable tax credit so they can get that insurance, pay for that insurance policy directly, is another piece of this puzzle.

And as we think about the uninsured side, we need to recognize that we have, just as we have in education, left too many of the disadvantaged behind. Thirty-five percent of Hispanic households are uninsured; 18 percent of African American households, with only 11 percent of white. There is a disparity in who is hurting, and we need to address them.

While we address the uninsured, we also get control of costs. By getting control of costs, we make American jobs more competitive, and we keep American jobs here. And I think it is also important as we look off on the horizon at how do we control the long-term deficit, how do we control the long-term liabilities that we have, the unfunded liabilities in Medicare and Medicaid are significant. The number one variable that will determine how we control those will be to help control health care costs.

These measures that we have proposed, that we have talked about tonight will not just lower the uninsured, will not just grow jobs here in America, but will get long-term costs under control so we can control that deficit, which again will help make for a stronger economy now and in the future.

So I thank my friend from Kansas for bringing this very important topic to the floor.

Mr. TIAHRT. In summary, Mr. Speaker, we have over the last generation watched Congress continually raise barriers for us to keep and create jobs in America. We have found out by investigating this that we could develop these problems into eight categories, eight issues that we are going to deal with.

The problem is not Benedict Arnold CEOs. They only have a couple of costs they can control, and that is wages and overhead. And the problem is not the wages, because most of them want to have high-quality employees they want to pay high wages to. They want to attract the best and the brightest. The problem is not overhead. We found out it costs the same to build a building in India, in the Philippines, or in America. It is Congress. The problem is in Congress and what we have done over the last generation to continually put barriers in the way for people to keep and create jobs.

We have started with these eight issues. We are starting this week with health care security. We talked about the three plans that we are dealing with this week, including medical malpractice reform, association health plans, and what was the other one?

Mr. KENNEDY of Minnesota. The flexible savings accounts and the ability to roll those over.

Mr. TIAHRT. Flexible savings accounts, correct. Next week we are mov-

ing on to bureaucratic red tape termination, because we found out that the cost of complying with bureaucratic red tape in America is about 12 percent of every manufactured product. If we can cut that in half, we would be 5 percent more competitive.

We are going to deal with life-long learning so that we have high-skilled, high-trained workers. We need to get more science and technical and engineering graduates.

Then we are going to deal with trade fairness and opportunity. We must have fairly applied trade agreements. We must open up new markets, but we have to overcome monetary manipulations by other countries and by unfair trade practices by other countries. And we are going to deal with that.

Then we will move on to tax relief and simplification and figure a way to pull the cost of taxes that are buried into our products out of it so that we are more competitive.

Then we will deal with energy self-sufficiency and security. We are going to present legislation that will create 700,000 jobs in America. We are going to deal with research and development so that we can continue to be innovative and bring new ideas to the world and more jobs to America.

Then we are going to deal with ending lawsuit abuse and litigation so that we can lower the cost of liability insurance, limit liability so we can create new jobs, and, again, bring workers back into America.

The lines are very clear. Congress over the last generation has created these barriers. The people who employ workers cannot vote on this. They cannot reduce these barriers. They cannot remove these barriers. Only the Members of Congress can remove these barriers, and so we must deal with them.

This is the debate we should be having today. This is the debate we need to have so that we can remove the barriers and bring workers back into America, bring jobs back into America, high-quality, high-paying jobs. We call it "Careers for the 21st Century" because we want people to be able to pursue their dreams, pursue the career that they desire the most.

So we are going to complete health care security this week and next week move on to bureaucratic red tape. And if you cannot support these issues, it is my firm belief that you cannot support bringing jobs back into America, because these are clearly the barriers to bringing jobs back. They are barriers faced by every small businessman I talk to. They are barriers faced by even the large employers. They know this is what is controlling their costs. They want to pay high wages and build buildings and have their plants here in America, but they cannot reduce these costs: health care security, bureaucratic red tape, life-long learning, trade fairness and opportunity, tax relief, energy self-sufficiency, research and development, and ending lawsuit abuse.

If we can overcome these barriers, we will bring jobs back into America. That is the plan the Republicans have in the House.

Mr. Speaker, I want to thank the gentleman from Minnesota (Mr. KENNEDY) for joining me this evening. I think we have covered some good territory. We have covered the topic, I think, very well, and next week we will move on to bureaucratic red tape.

PETROLEUM PRICES AND THE TRADE DEFICIT

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, today the United States Department of Commerce announced a record U.S. trade deficit of over \$46 billion for just the month of March as imports coming into our country swamped our exports going out. That means more good U.S. jobs are being off-shored to China, to India, to Latin America, jobs everywhere but here in the United States.

Since this President took office, 2,740,000 more people in this country have lost their jobs; and we have record trade deficits, as these numbers indicate today, record budget deficits, unemployment, people who cannot get unemployment benefits, and soaring gas prices at the pump. It sounds to me like we are trading away America's economic independence.

This chart describes the trade deficits keep growing year after year after year as we keep losing our good jobs. This year it is projected over one-half trillion dollars in trade deficit. The numbers today confirm this.

One of the interesting aspects of the numbers today is the trade deficit related to petroleum, imported petroleum, which has grown by \$1.3 billion more imports into our country since February, with rising prices. In fact, the new record trade deficit increased by one-third due to our trade deficit related to petroleum. Every time an American goes to the gas pump and spends one dollar, 54.5 cents goes out of this country. Saudi Arabia gets 7.5 cents, Mexico gets about 6.5 cents, Canada gets 6.5 cents, Venezuela 6.25 cents, Iraq gets nearly 5 cents, and a penny goes to Kuwait.

Over years and months, this totals billions of dollars of wealth draining out of this economy. Today, our trade deficit for petroleum is over \$12.5 billion a month. Imagine if we were investing those dollars in ourselves here at home in new energy industries, which we are not.

Becoming energy independent at home could yield the strongest impetus to job creation that this Nation has seen since we began to move to launch a Moon shot nearly 40 years ago.

This evening, I would like to insert into the RECORD an excellent editorial done by Paul Craig Roberts entitled

"Disaster Lurks in April Jobs Numbers." He says there is no good news in the April payroll data because disaster lurks in the job numbers. The U.S. Labor Department is becoming Third World in character. He says the troubling pattern is that despite a massive trade deficit that pours \$500 billion of our money into foreign pockets, the U.S. economy cannot create jobs in the export or import competitive sectors. The U.S. economy is creating domestic service jobs only, and that cannot create real wealth.

The 280,000 private sector jobs created in April break out as follows: over half were in temporary work. As the prior Special Order had to do with health insurance, believe me, there are no health benefits associated with temporary work. There were 34,000 American hired, but as waitresses and bartenders, lucky to make the minimum wage and lucky if they have any health insurance at all.

Since January 2001, the United States has lost nearly 3 million jobs. We can tick them off, and we will submit them for the record: in wood products, 50,000 lost jobs; in computer and electronic products, which was supposed to save us, over 536,000 jobs; in transportation equipment, similar losses; in petroleum and coal products, another 10,000 more lost jobs. And the service jobs that are partly trying to replace them simply cannot replace the hundreds and hundreds of thousands of jobs lost in tradeable services, including telecommunications, computer services, bookkeeping, architecture, and engineering. This leaves the U.S. economy with 2.2 million fewer private sector jobs at the end of April, this year than existed 3 years ago.

Once free trade was a reasoned policy, hopefully based on sound analysis. But today it is an ideology that hides labor arbitrage. Because of the low cost of foreign labor, U.S. firms produce off-shore for U.S. customers, bring their products in here, and then wipe out U.S. jobs. Where does this leave Americans? It leaves them in the lowest paid domestic service jobs.

Mr. Speaker, these types of trade deficits are sapping America's wealth and our strength. It is time to change the policies, starting here in Washington, D.C., and begin to move free trade into fair trade, or the American people are going to continue to suffer the hemorrhage of wealth and jobs out of this society.

So, here we go again. Sometimes it feels like a broken record. The administration touts trade deals. The president negotiates more deals in secret. The Congress gets an up or down vote. The agreement goes into effect. Trade surpluses turn to deficits. More good jobs are lost. Small deficits reach record deficits. When are we going to learn?

The American people have learned and, unfortunately, they are paying the price. Since this President took office, 2.74 million people have lost their jobs. Not many of those are corporate executives. When THEY go, they go with massive severance packages. What are

we giving to America's working families? Record trade deficits, budget deficits, unemployment and soaring prices at the gas pumps. That does not sound like a fair trade. Sounds like we are trading away our economic independence.

Let's just take a look at three of our trading partners. Before NAFTA we had a trade surplus with Mexico and a small deficit with Canada. After the signing of NAFTA, companies skipped town from U.S. cities to exploit the workers across the border. Who wins? Not the working families of the U.S. with little hope for the future. Not the families forced off their land in Mexico only to crowd into the cities and maquiladora zone. In fact, companies are skipping right over the Mexican workshops for the next lowest common denominator—China.

Boy did we hear great promises about the Chinese marketplace and its one billion consumers. Strangely enough, the most recent trade statistics put China's trade deficit for one month at over \$10 billion. That is just for one month. What is the administration doing to shore up our economic security? Are they pursuing limits on China's manipulation of currency? No. Are they willing to stand up for workers in the U.S. and China by officially pressing the government of China to address atrocious workplace conditions? No. They have grand plans of talking to the Chinese. All of that talking has taken us to record setting deficits. That is not what most Americans would call a plan for economic independence.

When it comes to oil, there is not much of a difference—unless you count the media reports that the Saudis have promised to lower the price of oil in time for the elections. Are we going to stake our energy independence on the whims of the Saudis? Does not sound like a good idea to me.

The Department of Commerce today issued a release that announced "The deficit increased \$3.8 billion from February to \$46 billion in March as imports increased more than exports." Fairly typical jargon from this Administration. What they fail, and I repeat fail to mention is that the trade deficit related to petroleum has grown by \$1.3 billion since February. The new record trade deficit increased by one third due to our trade deficit related to petroleum. Let me repeat myself because this is the key, the new record trade deficit increased by one third due to our trade deficit related to petroleum. That is \$1.3 billion more that was drained out of our nation and sent to the nations of OPEC.

The \$5.6 billion trade deficit with oil-producing countries, including Saudi Arabia and Venezuela, is the highest on record. For every dollar that an American spends at the gas pump 54.49 cents goes out of the country, Saudi Arabia gets 7.35 cents of that dollar, Mexico 6.57 cents, Canada 6.52 cents, Venezuela 6.26 cents, Iraq 4.96 cents, and 1.03 cents go to Kuwait.

Today our trade deficit for petroleum is over \$12.5 billion a month. That is an increase of over \$1.3 billion from the previous month. The average price of imported crude oil rose to \$30.64 a barrel in March, the highest since February 1983, today the price of crude peaked at \$40.92, this is only 23 cents less than the all time record.

The United States annually consumes roughly 7,171,885,000 barrels of petroleum. (164 billion gallons of vehicle fuels and 5.6 billion gallons of heating oil) In 2001, 55.4 percent of these fuels were imported, part of a

total \$358.2 billion trade deficit with the rest of the world. Since 1983, the United States importation of petroleum and its derivatives has nearly quadrupled, rising from 1.21 billion barrels in 1983 to 4.65 billion barrels in 2003.

In 2003 the total deficit for trade of petroleum between the United States and the rest of the world totaled \$120.5 billion. Our total trade deficit for 2003 was only \$489.9 billion. That means if we as a nation were energy independent we would cut our trade deficit by one quarter annually. If we were truly energy independent it would mean we would have the creation of jobs, be a step closer to a trade surplus, real urban revitalization and rural development, and wealth being generated right here at home as opposed to increasingly exporting our jobs, capital and wealth.

Becoming energy independent here at home would yield the strongest job creation this Nation has experienced since we landed a man on the moon. Just focusing more effort in agricultural fuels production would produce growing economic security here at home.

Continued dependence upon imported sources of oil means our Nation is strategically vulnerable to disruptions in our oil supply. Renewable biofuels domestically produced directly replace imported oil.

Increased use of renewable biofuels would result in significant economic benefits to rural and urban areas and also reduce the trade deficit.

According to the Department of Agriculture, a sustained annual market of 100 million gallons of biodiesel alone would result in \$170 million in increased income to farmers.

Farmer-owned biofuels production has already resulted in improved income for farmers, as evidenced by the experience with State-supported rural development efforts in Minnesota where prices to corn producers have been increased by \$1.00 per bushel.

Biofuels hold the potential to address our dependence on foreign energy sources immediately. With agricultural surpluses, commodity prices have reached record lows; concurrently world petroleum prices have reached record highs and are expected to continue rising as global petroleum reserves are drawn down over the next 25 years. It also is clear that economic conditions are favorable to utilize domestic surpluses of biobased oils to enhance the Nation's energy security.

In the short term, biofuels can supply at least one-fifth of current United States fuel demand using existing technologies and capabilities. Additional plant research, newer processing and distribution technologies, and placing additional acres under cultivation can yield even greater results.

Biofuels can be used with existing petroleum infrastructure and conventional equipment.

The use of grain-based ethanol reduces greenhouse gas emissions from 35 to 46 percent compared with conventional gasoline. Biomass ethanol provides an even greater reduction.

The American Lung Association of Metropolitan Chicago credits ethanol-blended reformulated gasoline with reducing smog-forming emissions by 25 percent since 1990.

Ethanol reduces tailpipe carbon monoxide emissions by as much as 30 percent. Ethanol reduces exhaust volatile organic compounds emissions by 12 percent. Ethanol reduces toxic emissions by 30 percent. Ethanol re-

duces particulate emissions, especially fine-particulates that pose a health threat to children, senior citizens, and those with respiratory ailments.

Biodiesel contains no sulfur or aromatics associated with air pollution.

The use of biodiesel provides a 78.5 percent reduction in CO₂ emissions compared to petroleum diesel and when burned in a conventional engine provides a substantial reduction of unburned hydrocarbons, carbon monoxide, and particulate matter.

Mr. Speaker, I submit herewith for the RECORD the article I referred to earlier:

DISASTER LURKS IN APRIL JOBS NUMBERS

(By Paul Craig Roberts)

There is no good news in the April payroll data released last Friday by the Bureau of Labor Statistics. Disaster lurks in the jobs numbers: the U.S. labor market is becoming Third World in character.

The April jobs data show a continuation of the troubling pattern established in recent years. Despite a massive trade deficit that pours \$500 billion annually into foreign hands, the U.S. economy cannot create jobs in the export or import-competitive sectors of the economy. The U.S. economy can only create jobs in non-tradable domestic services-jobs that cannot be located offshore or performed by foreigners via the Internet.

The 280,000 private sector jobs created in April break out as follows: 104,000 were hired as temps and in administrative and waste services, 34,000 were hired as waitresses and bartenders, 30,000 were hired in health care and social assistance, 29,000 in wholesale and retail trade, 21,000 in manufacturing (half of which are in fabricated metal products), 20,000 plumbers, electricians and specialty contractors, 10,000 hired by membership associations, 10,000 in legal, architectural and engineering services, 8,000 in management and technical consulting, and 4,000 in real estate.

The vast majority of these jobs do not require a college degree. One can only wonder what will become of the June graduating class.

Since January 2001, the U.S. has lost 2.7 million manufacturing jobs. Job loss by sector: wood products 50,000, nonmetallic mineral products, 61,000, primary metals, 145,000, fabricated metal products, 272,000, machinery 300,000, computer and electronic products, 536,000, electrical equipment and appliances 136,000, transportation equipment 209,000, furniture and related products 97,000, misc. manufacturing 79,000, food manufacturing 53,000, beverages and tobacco products 13,000, textile mills 128,000, textile product mills 33,000, apparel 172,000, leather and allied products 18,000, paper and paper products 90,000, printing and related support activities 137,000, petroleum and coal products 10,000, chemicals 79,000, plastics and rubber products 125,000.

Since January 2001, financial activities created 247,000 jobs, and nontradable domestic services (education services, healthcare and social assistance, leisure and hospitality, and membership associations) created 2,026,000 jobs.

These service jobs were offset by 302,000 lost jobs in retail, 261,000 lost jobs in transport and warehousing, 124,000 lost jobs in management of enterprises, and 1,222,000 lost jobs in tradable services such as telecommunications, ISPs, search portals, and data processing, accounting and book-keeping, architecture and engineering, computer systems design, and business support services.

That leaves a net increase of 488,000 jobs in domestic services created during the past 3

and one quarter years. Offsetting these jobs with 2.7 million lost manufacturing jobs, leaves the U.S. economy with 2.2 million fewer private sector jobs at the end of April 2004 than existed in January 2001.

Once free trade was a reasoned policy based in sound analysis. Today it is an ideology that hides labor arbitrage. Because of the low cost of foreign labor, U.S. firms produce offshore for their U.S. customers. The high speed Internet permits people from all over the world to compete against Americans for knowledge jobs in the U.S. Consequently, the "New Economy" is being outsourced even faster than the old manufacturing economy.

Where does this leave Americans? It leaves them in low-pay domestic services. As the BLS 10-year job forecast made clear, 7 of the 10 areas that are forecast to create the most jobs do not require any university education—definitely not the picture of a high-tech economy.

Why then will Americans attend universities? Will Wal-Mart require an MBA to stock its shelves? Will nursing homes want their patients bathed by engineers?

Obviously, education and retraining are not answers to job loss from US employers substituting foreign labor for American labor.

One does not have to be an economic genius to understand what is happening. Capital is most productive where labor is most abundant, and labor is most productive where capital is most abundant.

Thus, we see US capital flowing to Asia where labor is cheapest, and Asian labor flowing via the Internet to the US where capital is abundant.

US labor loses both ways. Products Americans used to make are now made offshore, and the Internet lets foreigners compete against Americans in the US labor market.

An engineer in Boston, Seattle, Atlanta, or Los Angeles cannot compete with an Internet hire in India, China, or Eastern Europe, because the cost of living in the US is much higher. The Boston engineer cannot work for the Indian salary, because his mortgage debt and grocery prices will not adjust downward with the salary.

The man in the street has no difficulty comprehending this simple fact, but for ideologues, free trade is a virtue—regardless of the harm done to American labor and the US economy.

NATIONAL COVER THE UNINSURED WEEK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Ms. BALDWIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the subject of this Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wisconsin?

There was no objection.

Ms. BALDWIN. Mr. Speaker, I rise today in the midst of National Cover the Uninsured Week to draw attention to the 43.6 million Americans who do not have health insurance and the millions more who are underinsured.

□ 2130

Ms. BALDWIN. Mr. Speaker, our Nation is in the midst of an escalating health care crisis. As health care costs soar, it becomes increasingly difficult for Americans to obtain comprehensive and affordable health care. Our current health care system is failing not only the 43.6 million Americans who are uninsured, but also the millions more who do not receive comprehensive health care. We can no longer turn our backs while millions more lose access to health care. The lack of comprehensive and affordable health care affects every single congressional district in every State.

To highlight this issue this evening and its real impact that Americans are experiencing, I have invited my colleagues to join me in sharing letters and thoughts, but letters particularly from our constituents who have had difficulty obtaining and affording comprehensive health care. I think it is really important that their voices are heard in this debate.

I would like to begin with just a few letters from my district in Wisconsin that express real people's difficulties in dealing with the ever-rising cost of health care.

Jen, from Oregon, Wisconsin, starts, "Please help. I cannot find affordable health insurance. My husband works for a small employer that cannot afford to provide medical insurance. We have a tiny 2-bedroom home, a car payment and a 2-month-old baby. We choose to live very modestly in order to provide the margin to pay for health insurance, but the cheapest premium I could find was \$200 per month with a \$3,350 deductible, and there are no maternity benefits. The amount is heartbreaking. There is no money to pay for clothes, let alone emergencies. If I worked full time for the health insurance, there would not be enough to pay for day care and somebody else would be raising my baby.

"It simply is not right that people in our society lack medical coverage when every other First World country provides for all of their citizens. Plus, how many people are underinsured? Also, our businesses are starting to go bankrupt just trying to maintain their health care benefits.

"Something has to change. Would you please help all of us as soon as possible?"

Next is from David, from Cross Plains, Wisconsin. David writes, "My wife and I have been self-employed for over 18 years, and have paid thousands of dollars for health insurance premiums. As of a few months ago, we had to drop out and are now without health insurance. The cost is completely out of reach. In fact, it is nuts. Now that I am 50 years old, it is not a matter of if I will have health problems, it is when.

"Tammy, we will lose everything we have worked for. So much for the American dream. We now look forward to dying broke and homeless. I still work 60 hours a week at my print shop

and can only hope that I drop dead in front of my press some night so I will not be a burden to society."

Emily from Stoughton, Wisconsin writes, "I am writing to you to express my utter frustration at the status of the United States health care system. It is my opinion that it is rapidly failing, and many, many people are finding themselves paying staggering monthly premiums and getting substantially fewer benefits every year.

"My husband runs a small business, less than 10 employees, and our family is being financially penalized for offering group health insurance to seven workers, two of which have had some significant health care needs in the last year. These two employees, just by getting illnesses not in their control, have jacked up our monthly premium by a staggering amount. It seems to us that offering health insurance is an ethical responsibility of ours as employers, yet our family still must pay a ridiculously escalating sum monthly just because of these two employees with unexpected health problems. In addition, I am routinely getting surprised upon regular visits to dentists, eye doctors, et cetera, to find we have no coverage at all from our HMO when only 1 year ago we had full coverage for these services.

"Thanks for letting me vent. I feel powerless and at times hopeless."

Before I continue with some additional letters from my congressional district, I am delighted to be joined this evening by one of my colleagues, the gentleman from Ohio (Mr. BROWN), a member of the Committee on Energy and Commerce, a tireless advocate for health care.

Mr. BROWN of Ohio. Mr. Speaker, the gentlewoman from Wisconsin has fought as hard as anybody in this body for universal health care for people who play by the rules, pay their taxes, most of whom have jobs and simply have been left out of this system, left out because this Congress, this President, do not seem to care.

We had 40 million people uninsured 3 years ago; today that number is 44 million. Of those people who do have insurance, many of them are underinsured. Many do not have a decent drug benefit. Many seniors do not have a good drug benefit, and this Congress has either done nothing or moved backwards as they have tried to privatize Medicare and tried medical savings accounts and other kinds of Rube Goldberg ways to try to provide health insurance, when in fact most of what they are trying to do is enrich the drug companies and the insurance companies.

We are also joined by the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from New Jersey (Mr. PALLONE). My State of Ohio has 1.2 million people without health insurance, and 85 percent of those who lose their jobs also lose their health insurance. In Ohio, as much of the Great Lakes States, particularly Wisconsin,

Michigan, Pennsylvania, Minnesota, those States have suffered dramatically because of high unemployment, because of large numbers of job layoffs. In Ohio, we have lost one-sixth of our manufacturing jobs since President Bush took office. We lose 200 jobs every day, and about 170 of those people lose their health insurance, yet this Congress sits on its thumbs and does nothing about it.

But these are numbers, and I want to share some stories of people to put life situations to these numbers so people really see what this means.

Joseph from North Ridgeville writes, "Something has to be done about health care. We are going in the wrong direction. I cannot even think about retirement because of the cost of health insurance in Ohio. I am in Local 546, and a lot of us feel the same way. I am not sure how long I am going to have a job, to make matters worse. Sorry to complain."

Mr. Speaker, he writes, "Sorry to complain." This is a gentleman who works hard, plays by the rules, pays his taxes. He does not have the health insurance he needs. His employer, it sounds like, is doing the best they can, and Joseph says sorry to complain. If people are playing by the rules, this society needs to do better. Joseph also does not want to be a burden on society.

Judith from Medina writes, "We are currently without any health care coverage because the company where my husband works raised the monthly premium so high we could not afford it. It was either health care or food. So many people are finding themselves in this predicament now that something must be done on a national level.

"Surely Congress can come up with some kind of help for those of us in this situation before it is too late and before something tragic happens to us. We could lose our home and be out on the street if a catastrophic disease hit one of us. Please, please make this a priority. So many need help. What will the insurance companies do when so few can afford their coverage that most cancel? What will happen to the health care system in this country then? Please give this top priority. I believe it is vital to this Nation. Thank you." That letter was from Judith of Medina, Ohio.

Again, this family plays by the rules. They are working hard, and our government simply has not stepped up and fulfilled its obligation to them to make health care a right, not just a privilege.

Thomas from Cuyahoga Falls in my district writes, "Representative BROWN, I have a question. I have a full-time job, a wife and children. My employer does not offer health care benefits. I cannot afford to purchase coverage on my own. What can I do? Please let me know what the government is trying to do to remedy this problem. I am sure I am not the only one dealing with this. Thank you very much for your time."

All these letters suggest, first of all, great hardship that people face, great risk people face if they get a catastrophic illness, and they underscore the point that we are the only Nation in the world, as wealthy as we are as a country, we are the only Nation in the world that does not provide health care to all of its citizens. We are the only Nation in the world that allows drug companies to charge whatever they want to charge.

Our government's response is more tax cuts for the richest people in the country. President Bush's tax program gives a person making \$1 million a \$123,000 tax cut, yet they cannot provide insurance to Thomas of Cuyahoga Falls, Judith of Medina, Joseph of North Ridgeville, and all of the people that the gentlewoman from Wisconsin (Ms. BALDWIN) mentioned in Wisconsin.

We give huge tax breaks to the wealthiest people, we spend \$1.5 billion in Iraq setting up a health care system there, and my friends on the other side of the aisle and the President simply turn their backs on these people who are playing by the rules. These are people who work and have full-time jobs that are trying to raise their family, and we do not help.

What we ought to do is four things. First of all, we should extend unemployment benefits to the 1 million workers in this country and the 50,000 workers in the districts of the gentleman from Ohio (Mr. STRICKLAND) and my district who have lost their unemployment. They are working, they have lost their jobs and they are trying to find jobs, and their unemployment insurance expired.

Second, we should do the Medicare buy-in bill to allow people 55 to 64 who do not have insurance for whatever reason, to allow them to buy into Medicare.

Third, we need to work on the children's health insurance program. There are 8.5 million children in this country who do not have health insurance. In most cases, their parents have jobs at companies like Wal-Mart and places like McDonald's and places that do not do health insurance, even though the companies are making billions of dollars, in the case of Wal-Mart.

And then last, fourth, we need to pass the legislation we introduced today to give small businesses incentives to insure their employees.

Those three bills, the unemployment extension we have pushed and pushed and pushed. The majority and the President have stopped it dead in its tracks. The other three bills were introduced today by the gentleman from Texas (Mr. SANDLIN), the gentleman from California (Mr. STARK), the gentleman from New Jersey (Mr. PALLONE), myself, and a whole host of others. We should move quickly on those bills as the number of unemployed workers in this country who have lost their jobs is way too high and too many people who have lost their jobs have lost their health insurance.

It is discouraging, but worse than that, it is outrageous that we as a country, as rich as we are, simply will not take care of those who play by the rules, pay their taxes, contribute to their communities, and we do not do anything about their health insurance.

Ms. BALDWIN. Mr. Speaker, I thank the gentleman for sharing his constituent's words as well as his own to this critical debate. I must note that the gentleman points out that we are the only industrialized Nation in the world that does not offer health care to all of its citizens.

I was listening to the Special Order which occurred the hour before this, where Members from the majority were talking about nations with universal health care plans and berating them for rationing care. I cannot imagine how anyone believes that a system where 43.6 million people are uninsured, and many more underinsured, we are clearly rationing care here in this country and need to step up to the plate and address that.

I am delighted to be joined by another one of my colleagues whose work on the issue of health care I admire so greatly. The gentleman from New Jersey (Mr. PALLONE) is also a member of the Committee on Energy and Commerce. Day and night, the gentleman works on the issue of health care.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman from Wisconsin (Ms. BALDWIN). I know that both of us are involved with the Democrats' health care task force. One of the things that we work on is trying to come up with some solutions in dealing with the problem of the uninsured. As was pointed out, the number of the uninsured continues to go up. The gentleman from Ohio (Mr. BROWN) said it was 40 million a few years ago, now it is up to 44, 45 million. The number continues to grow.

I do not like to criticize the Republican side of the aisle unnecessarily, but I am amazed by the fact that our two colleagues who were here earlier were so convinced that other countries do not have the solution. Statements were made about how national health insurance does not work, yet the reality is, as my colleague from Wisconsin mentioned, in fact it does work.

□ 2145

I am not saying that we are advocating that. I would love to see national health insurance. I know that is not realistic politically, we are not going to get it; but to suggest that somehow these other countries, whatever country you mention, France, Great Britain, Canada, Italy, all of Western Europe, every developed country really, other than the United States, has some form of national health insurance.

The one thing I would stress, too, is I think when people talk about national health insurance, they get the

impression that somehow that means that the government is going to run the hospitals or salary the doctors or something like that. That is not what national health insurance is all about. National health insurance just means that everybody has health insurance. People can have thousands of different policies, but it would be wonderful if we could say that everybody has health insurance. We are not saying, I am not saying certainly that the government would run the system, but they would at least guarantee that everybody has some form of health insurance. But that is not going to happen, that is not going to happen in the near future, so I do not want to really stress that today.

I also heard my colleagues on the Republican side talk about community clinics or community health centers. The amazing thing about the Republicans is that they are in the majority and they act as if they are running for office and if they get in, they are going to implement these policies. They neglect to point out that they are in the majority, that the President is a Republican, the other body, the Senate, is majority Republican, there is a significant Republican majority here. So if they think these policies are so wonderful, why do they not pass them? The reason is because they do not have a consensus. In other words, they cannot get all the Republicans or a majority of their own party to agree on these three bills that they brought up today.

They have characterized this week as Cover the Uninsured Week. They basically have three bills that are on the House floor. One deals with associated health plans; the other Republican bill is the health savings account legislation; finally, the medical malpractice legislation. Every one of these things has already been passed in this House in pretty much the same form last year. Again, they are in the majority. I think these bills are terrible. I refuse to vote for any of them, but if they think they are so wonderful, then what is the the big holdup? Pass it here, send it over to the other Republican body, send it to the Republican President, it becomes law. That is the way we operate.

The problem is these proposals do not actually help the uninsured. They are bad proposals that will probably result in more people being uninsured, and that is why they cannot get most of the Republicans or enough Republicans to pass them. There is a certain amount of disbelief on my part when I listen to what they say.

The other thing is they talked about the community clinics. I have to go back to that. Again, if you believe that community clinics or health centers are a way of dealing with people who do not have health insurance, I do not. I think they serve an important role. I would rather see everybody have health insurance; but certainly if everyone does not, as my Republican colleagues mentioned, somebody could go

to a community health clinic or health center. These places are grossly underfunded. A few weeks ago when we had our break around Easter and Passover, I had a gathering, a forum at a community health center in Asbury Park which is in my district. They are so grossly underfunded. They try to accommodate everybody, but they cannot.

One of the things that was particularly egregious was dental care. We know how there is no dental care, and there are long lines. They do not even have the dental clinic there. It is at another location. There were long lines of people that cannot get in. The Republicans are in the majority. If they think community health clinics are the answer, why do they not just appropriate money so that they can accommodate more people or we can have more of them? I do not want to just totally discredit them, but when I hear these statements, and I hear this banter about how this is Cover the Uninsured Week, the bottom line is it is just a ruse.

I want to just talk about each of these bills that they say is going to address the problems of the uninsured. They claim that the associated health plan legislation, which I think was voted on today, that that is going to lower rates and provide greater access to insurance. The reality is that the associated health plan legislation would result in less health care access and dramatic increases in premiums for State insurance-based employers. Associated health plans would fragment and destabilize the small group market resulting in higher premiums for many small businesses. The Republican legislation would allow employers to cherry-pick, attracting younger, healthier individuals to join associated health plans while leaving older, sicker individuals in the traditional insurance market which results in increased premiums for the remaining pool.

One of the things that everyone knows about health insurance is that the more people you have in the pool and the more varied they are, young or old or sick or healthy, then the more it works. I do not want to get into all the details of that, but that is just the reality of insurance. What this associated health plan does, is break the pool and there is cherry-picking of the younger and healthier and leaving the others outside. So it just does not work. It makes the situation worse.

The second thing they mentioned is the Republican health savings account legislation. I think that is up tomorrow. That creates a tax-favored saving provision with no income limitations. The main reason Republicans want to pass this bill is to create a new tax shelter for the healthy and wealthy while at the same time threatening higher health insurance premiums for everyone else. Under this bill, basically you get a tax credit that would allow you to set aside up to \$2,000 tax-free in a new health savings account to sup-

posedly help pay for health insurance, but unfortunately it is practically impossible for someone who is uninsured, who inherently does not have a lot of money, to be able to take advantage of the program because they would have an extremely difficult time saving \$2,000 a year for health care. Again, it is not practical.

The last one, and I do not want to spend a lot of time on it, was the medical liability reform. I agree that we need to address the rising cost of medical liability insurance, but what does it have to do with the uninsured? How is passing that going to do anything? The nonpartisan Congressional Budget Office concluded, and I quote, "that even a very large reduction in malpractice costs would have a relatively small effect on total health plan premiums." It is not going to help the uninsured. It is not even going to reduce costs in any significant way for the patient. It is addressed to the physicians. That is certainly a good cause but it is not going to help the cost for the patient or result in any more people being insured. I later want to talk maybe a little bit about some of the Democratic proposals. I know that my colleague from Ohio did that.

Ms. BALDWIN. I too share the gentleman's passion for creating a system where everybody in this country has health insurance. I guess I agree that the short-term prospects are dim, especially given this administration, this majority. But I do have some hopefulness, because frankly I think that the voices of 44 million Americans cannot be silenced and ultimately will lead to that political change that we are seeking. Along that line, I would like to share the words of a few more of my constituents. I want to share the words of Roger from Waunakee, Wisconsin. He writes:

"I'm a baby boomer that was rejected for health care. The explanation was vague, so I'm taking efforts to address it and resolve it but I'm frustrated with the realization of flaws in our health care system. At 54 years old, I'm healthy enough to exercise year round and race competitively in triathlons but not risk-free enough for the insurance companies. My wife is also healthy but she has so many riders on her coverage that her policy is almost worthless. An issue that may haunt us is what I call use it or lose it. Our main problem appears to be that we once had insurance and used it to stay healthy. Our claims were very small, much smaller than our annual fees but the insurance companies are using the knowledge that we learned about staying healthy as a logic to reject us. I normally don't like to see government getting into private matters, but health insurance does not appear to be a private matter anymore. We could easily pay out of pocket for the health costs we've incurred. We just wanted protection for potential major losses but now we're being rejected because of that."

Aside from frustration with the higher cost of health care, thousands of other constituents write to me about the trouble they have finding an insurer to cover them.

Susan from Baraboo, Wisconsin, writes:

"I am writing you today regarding health coverage for single people with no children. As of this time, I feel that I am left out of the loop in regards to this topic. I am 42 and last September I was diagnosed with breast cancer. In January of this year, the company I worked for informed us that they would be closing down. I was laid off in December while I was out due to my cancer treatment. I have been searching for health care elsewhere because my COBRA will be going up. I am on unemployment, and I am barely able to pay the \$244.76 for coverage now. I cannot get insurance because of the breast cancer. The health insurance risk-sharing plan, HIRSP, the Wisconsin State program, is too expensive for me to get coverage since they want 4 months of premium up front and they only cover some things. What are single people supposed to do? We do not qualify for any government assistance because we are single. I cannot go without insurance. There are no programs to help us out. So when you are working on health care in the House, please remember that there are other single people out there also in my shoes. I am at a crossroads because I have no avenue for assistance when it comes to health care. Come November, I will be unable to get coverage when I need it at this point in my life."

Florita of Madison, Wisconsin, writes:

"I am a divorced parent and am having difficulty obtaining health care coverage for my young adult son. My son, now 19, was dropped from my group HMO and this was based on his age and not being a full-time student. His employer offers a health care plan but there is a 1-year waiting period. When I tried to apply for individual coverage for him through my current HMO, my son was rejected because they needed more detailed information on his health status. When I telephoned them and discussed his recent diagnosis of high cholesterol and the medication prescribed to control it, I learned that this alone would make him ineligible for coverage. I learned from other insurers that he would have been rejected in that he had high blood pressure, migraines, obesity, et cetera. In other words, the HMOs deny applicants for the conditions that are quite common for a large segment of the population. This entire situation frustrates me. The government provides free health care for prisoners, but law-abiding, hardworking citizens are either denied health care coverage by the major HMOs, often for ridiculous reasons, or are drained financially if lucky enough to find individual coverage due to the high deductibles and premiums, coupled with dental, prescription and

optical costs that are not even covered in these plans. Health care has become a for-profit business at the expense of people's health. All citizens, regardless of their income, should not be denied full health care."

At this point I would like to yield again to the gentleman from New Jersey to share some of the remarks from his constituents.

Mr. PALLONE. I want to thank the gentlewoman again. I actually do have two letters that I wanted to bring to your attention. By way of background, though, I did want to say, obviously many of us do believe as I do that we should have national health insurance. One of the letters actually addresses that. I would like to read it now. But I would also point out that there are ways of dealing with the uninsured in a more piecemeal fashion to expand options for the uninsured that would cover a great deal of those 44 million Americans. And so whether or not you agree, as I do, that we should have national health insurance or you want to look at this in a more piecemeal fashion, either way certainly would be better than what the Republican majority is proposing because I think that their solutions really are no solution at all. But I did want to read this one letter. I am not going to mention the names of my constituents because I did not get permission, so I am just going to read some sections. This is from a gentleman who is an advocate of national health insurance. He writes a very good letter.

He says:

"I ask that you give some thought for national health insurance to cover every American citizen. We as a Nation are ranked 37th out of 191 countries as far as medical health care. Our country is considered one of the wealthiest in the world. That being the case, why shouldn't every American citizen have medical, dental, and prescription drug coverage? A recent study by the prestigious Institute of Medicine said 18,000 Americans die each year because they don't have health insurance. Myself, I wonder how many die because they don't have adequate health coverage because they can't afford the better coverage. Some can't afford to pay for their medication, glasses and other needs. I find it disgraceful that should you fall very ill or need extended health care or have to be treated for a terminal illness, all personal property and assets you work hard for all your life will be taken away from you and your loved ones. No other industrialized nation rations out health care to the degree as the United States does."

The letter goes on, but I think that last point is particularly apt, given what our Republican colleagues said earlier this evening and I will read that section again from this letter: "No other industrialized nation rations out health care to the degree as the United States does." For those Republicans that say that other countries are rationing health care, we do it more than

anybody else because we have so many uninsured.

The second letter that I have I think is particularly significant because this person is a small business owner.

□ 2200

And as we know, one of the Democratic bills that we introduced today and that we wanted to have considered as an alternative to the Republican bill is the Small Business Health Insurance Act which creates a 50 percent tax credit to help small businesses with the costs of health care, which I think would be very significant; but again I would point out that under the rules of the House with the Republican majority, we were not allowed today to bring up this bill, which is what we wanted to do. We did not have that option.

But in any case I will say this is from Christine, I will not give her full name, one of my constituents. And again I am not going to read the whole letter but I will read some parts of it.

She says: "Dear Congressman PALLONE: I am writing to you to make you aware of the desperate situation in which my husband and I find ourselves. Included in this letter you will find a copy of a newspaper article from the Star Ledger." Let me explain that this newspaper article in the Star Ledger, which is the largest newspaper in the State of New Jersey, basically talks about the State License Beverage Association which had a health plan to cover member restaurants and taverns but essentially went belly up. I do not know all the details, but if people read the Star Ledger article, it simply stopped paying out benefits because it did not have the money to do so, which I think highlights again how difficult it is for small businesses to provide coverage even through their trade association.

But let me go on about what Christine says. She says: "This is most upsetting to us, as my husband was released from the hospital, after suffering a heart attack and subsequent angioplasty the day before we read this article" in the Star Ledger. "I cannot imagine what his bills will be."

"For a year prior to reading this" Star Ledger "article, we have been trying to find out why our doctor bills and hospital bills are not being paid. We receive letters and telephone calls from collection agencies. We never got a straight answer from the New Jersey License Beverage Association. We are told to resubmit the bills. Our premiums of \$868 per month were paid in full, without exception. We also pay a \$500 deductible per person, per year. That amount is for the most basic coverage; no dental or eye care. In addition, our plan is a 70/30 plan, which means we pay a co-pay each visit plus 30 percent of the rest of the bill." We can see that this is not really the best of plans, but this is all they had. When we are seeing cardiac specialists, this 30 percent can be hundreds of dollars. Being restaurant owners, we know this

amount of money is more than many people who work for large corporations pay, but we know it is what we have to pay to take care of ourselves.

"In addition to being without health coverage through New Jersey License Beverage Association, we now have to try to find a new health coverage plan. This task will not be an easy one. My husband and I are both in our 50s and have a number of health problems or, as they say, 'preexisting conditions.' Health insurance plans do not like to see these words. They are reluctant to take on customers who may cost them money right away.

"Please look into this matter. Where did our money go, if not to pay our doctor bills? How can we possibly be held responsible for over a year's worth of doctor bills when we have paid our premiums?" And they go on.

And, again, the problem is real. The problem faces these 44 million uninsured Americans every day. And what we have proposed as Democrats here today, and I know my colleague from Ohio went into it a little bit, were three pieces of legislation which, again, are not going to cover all those 44 million uninsured but probably would cover the majority of them. And one of them, as I said, was the bill called the Small Business Health Insurance Act, which creates a 50 percent tax credit to help small businesses with the costs of health care, but I wanted to mention the other two. The second one is the Family Care Act, which essentially expands Medicaid and S-CHIP to provide affordable coverage to about 7.5 million working parents.

What we found a few years ago when we studied the 40 million uninsured was that the biggest group of uninsured were kids, and the second largest were the near elderly, those between 55 and 65 that were not eligible for Medicare, and then the third, of course, were the parents of the kids. So we tried through, as I call it, piecemeal legislation to address those problems. And then we did pass it. It was a Democratic initiative, but we did get enough Republicans; so we passed the Family Care or the S-CHIP, which gave money back to the States to provide for health insurance for kids. What this bill does that was introduced today, this Democratic initiative, the Family Care Act, basically expands Medicaid and S-CHIP to provide coverage for the parents of those kids, the 7.5 million people.

And then the third piece of legislation is the Medicare Early Access Act that provides coverage to 3.5 million people who are over the age of 55, but not yet eligible for Medicare, by allowing them to purchase Medicare coverage. These are the second largest group of uninsured, the near elderly. What happens is that when someone gets, say, 10 years prior to that, 65, when they are eligible for Medicare, they are often in a situation where they may be a spouse of a husband who may have died because he is older. I am

assuming the woman is still alive, but it could be either way. Then the other thing is that a lot of people at the age of 55 will sometimes lose their job or they will be in a position where they have an early retirement and they may think they have health care coverage, and then they do not have it or they lose it. So that is definitely a very vulnerable group, and they could be added to the Medicare program by simply paying a premium. It was estimated, I think, a few years ago, when President Clinton was in office, that it would be something like \$350. I guess it was probably a month, I would imagine, \$350 a month. Some people may not have been able to afford that, but it would have been an option.

So these are ways, as I said, that we can expand health coverage and cover the majority of the uninsured without having to go to the national health insurance. Again, although I would like to see national health insurance, the Democrats have a consensus that this is a way to address the problem through this, as I call, piecemeal legislation that would provide significant coverage for most of the uninsured.

Ms. BALDWIN. Mr. Speaker, I thank the gentleman for his comments.

I have several additional letters from constituents that really, I think, emphasize the crisis that we are in right now, and their voices are so powerful in this debate. This is ultimately what is going to make the difference in this debate, what will ultimately bring us to pass effective legislation, not just things with feel-good titles to them. And their voices are very powerful in this debate.

One letter, Norm from Mazomanie, Wisconsin, Norm writes: "I had short-term coverage through COBRA, but that was cut short when my last employer reorganized. With that change came a loss of coverage, without notice. For some this would be a case of purchasing private coverage. For me it was a crisis as my medical records include treatment for skin cancer, angioplasty with two stents in my heart, and one episode of a transient ischemic attack (ministroke). I was lucky in all three cases as early detection and proper treatment left me able to work without limit and able to carry on life normally. However, it also made me uninsurable. I am grateful for living in Wisconsin as I was able to secure coverage through the Wisconsin Health Insurance Risk Sharing Plan. The coverage is expensive and has a high deductible. It is, in fact, best described as an asset insurance rather than health insurance.

"My bottom line is that if one can get the insurance, many can ill afford it. And if they can afford it, it commands such a large portion of the budget for a retiree or unemployed person that it is often a choice of insurance or having access to other normal things as well.

"Would there have been any value in saying we have a medical coverage cri-

sis in this country and it's not only for the homeless or indigent. It has arrived for the common man. There is no place to turn. We can fund billions to defeat Iraq and will spend billions more to repair that country. We give aid to half the world and spend billions on one questionable project or another. Yet we cannot seem to find a way to provide decent, affordable health care to those of us who have faithfully paid large portions of our income to the tax system. It is time for Congress to get off their figurative and collective behinds and address this issue." And that is what Norm writes.

Niki from Madison, Wisconsin says: "I'm fighting a battle right now just to get coverage. After a layoff 6 years ago, I had a year of COBRA and then found an agent and got insurance rather easily with a company the agent represented. That company" was bought by another company and now the new company "has decided to get out of the medical insurance business. My agent recommended switching companies and that's where the sledding has gotten tough.

One company "turned me down for a jammed little finger and removal of a benign growth and again on appeal, despite a letter from my doctor saying I have been a perfectly healthy person all my life with no predisposition to anything uninsurable," a second company asked "'Have you ever been turned down for insurance?' Well, yes, just last week, for a jammed little finger and removal of a benign growth." That company "gave me no specific reason for also turning me down. I have to make a request in writing to them for that information and then they won't send the information to me, only to the health provider of my choice.

"What really irks me is the years and years that I have never made a claim."

Along with these individuals, there are millions of Americans who are fortunate enough to find an insurer willing to cover them at an affordable price. But oftentimes the coverage turns out to be inadequate, and necessary medical procedures and treatments simply are not covered.

Jean from Stoughton, Wisconsin writes: "Please continue the fight for coverage for mental health with medical coverage. We know all too well the devastating sadness that we have endured having an immediate family member with a severe eating disorder complexed with Type I diabetes. We have fought with the insurance company for 3 years with little success. Twenty visits for mental health is all that is included with most medical plans, and this does nothing to address a severe eating disorder and very possible death being a fact at all times for our family. It takes no rocket scientist to understand that being put in the hospital every 3 weeks in intensive care for the last 3 years is not saving any money for the insurance company, and yet the company will not budge. They would rather let a patient die

than to open up the door and give mental health access to get better and become healthy."

Barbara from Madison, Wisconsin writes: "In August, 1997, both my husband and my college-age child required major medical care. One had a disease of the kidneys and one suffered severe clinical depression. Both patients required emergency visits and extended treatment. Both patients were compliant and followed their doctor's treatment instructions. Both patients were covered under the same family policy, which had been in effect for over 25 years.

"But our insurance company paid his expenses at a rate twice as high as it paid hers, because he had kidney stones and her severe depression was 'mental illness.'

"My husband underwent three outpatient treatments to dissolve the stones, as well as the required X-rays, tests, and office visits. When these treatments failed, he underwent surgery to remove the kidney stones. He was not expected to remain in extreme pain for the next several months until the new calendar year came in order to have insurance coverage. He was not told that he had used up all of his allotted benefits.

"My daughter required an emergency room visit as the result of a depressive self-harm episode.

□ 2215

Since this was not a psychiatric visit, the insurance paid 75 percent of the cost to treat her. But when she required psychiatric hospitalization to prevent any more self-harm, the insurance paid only 44 percent. And since she has been faithful about seeing her psychiatrist regularly, her insurance would not pay anything towards future psychiatric visits because she had used up her allotted number of visits for the year. She was expected to wait several months for psychiatric care to be covered, even though she was in extreme emotional pain, since she had used her allotted number of psychiatric visits for that year. Even though she was dangerously suicidal, the insurance company would not cover her psychiatric treatment. Of course, if she had harmed herself and survived, the medical bills would have been covered. Needless to say, we are not willing to take a risk with our daughter's life, so we accumulated an exorbitant amount of medical bills.

"Was my husband's health of more value than my child's? Of course not. But our insurance company paid his expenses at a rate twice as high as hers. Justice demands parity in insurance."

Mr. Speaker, as Cover the Uninsured Week comes to a close, I am very grateful to know that I have colleagues here fighting tirelessly for a better answer to our health care crisis in this country.

Before I close, I yield additional time to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank my colleague for not only doing this special order, but also for having all those letters and comments from her constituents, because I think that is the best way to show what the problem is. It needs to be personalized, because it is real.

This is not just some abstract theory we are operating under here. These are real people who are suffering and talk to us and approach us. Many of them are not in a position to write a letter, because maybe they are not articulate enough. But they tell you when they see you on the street or they see you at a function that they are having tremendous problems. And they are fearful. They either have no insurance or they are fearful they will not have insurance or they are under-insured.

I just want to spend a few minutes talking a little more about these three bills that we Democrats introduced today that I think will go far towards providing insurance for the majority of those 44 million uninsured Americans.

The one I mentioned before is the Small Business Health Insurance Promotion Act. This addresses small businesses trying to provide insurance for their employees.

I will not again get into all of it, but basically what it does is to provide a tax credit to help defray the costs of health insurance and encourage more employers to offer health insurance. It is available to any small employer who has 2 to 50 employees who provides coverage through a qualified pooling arrangement and who offers coverage to all employees. It is available to any self-employed individual who gets coverage through a qualified pooling arrangement. The tax credit, as I said before, is equal to 50 percent of the employer's cost of health insurance coverage.

Small businesses and self-employed individuals receive the tax credit for 4 years at least, and participating employers who increase the number of employees to over 50 after qualifying for credit continue to receive the credit for another 4 years.

The bill provides additional economic stimulus even to small employers who currently offer coverage, so it is something that those who offer coverage can take advantage of, so they do not get into a situation where they have to drop the coverage.

The second bill I mentioned is the one with the near-elderly. Actually, when I described it before, I made it sound as if you were going to have to pay all the costs of the premium. In reality, that is not the case. There is actually a subsidy in the bill. But I would like to describe it a little bit.

It again applies to those from 55 to 64. Starting in January 2005, individuals in that age bracket who have no insurance under another public or group health plan are eligible to purchase Medicare as their health insurance. They receive the full range of Medicare benefits and they are not re-

quired to exhaust employer-based COBRA before choosing the Medicare buy-in.

The way it works is the premium is set by the Centers for Medicare and Medicaid Services, and enrollees receive a 75 percent refundable advanceable tax credit to offset the premiums. So, basically the participants are only personally responsible for a 25 percent share of the monthly premiums.

The third bill I am not going to get into, because I see one of our colleagues has arrived, but it is the one for the parents of the kids who now receive funding and coverage for their kids under the SCHIP program.

Ms. BALDWIN. Mr. Speaker, I would like to now yield time to my colleague the gentleman from Rhode Island. The gentleman has distinguished himself on this issue since he joined us here in Congress.

I yield to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I want to thank the gentlewoman from Wisconsin (Ms. BALDWIN) and others for their leadership in organizing this special order, especially also the gentleman from New Jersey (Mr. PALLONE). The two of you deserve a great deal of credit, and I thank you for your leadership.

America's health care delivery system, Mr. Speaker, is incredibly flawed and in crisis. As premiums for employer-sponsored insurance rapidly rise, employers are struggling to maintain the same level of benefits or are offering less coverage and fewer options, and in some cases they are being forced to drop coverage altogether.

Even worse, the number of small businesses offering health insurance to their employees is rapidly declining. Existing public programs meant to reach those without access to private insurance are strained and still do not reach everyone. The challenges of the current system are affecting the health security of every American. Meanwhile, as we learned this week, the number of uninsured Americans is rising.

Mr. Speaker, we depend on coverage from a very haphazard system. If you do not qualify for a public program and do not work for an employer who is able to offer comprehensive benefits, you do not have access to affordable group coverage.

I find it staggering that over 30 percent of uninsured Americans are working and making more than \$50,000 per year. Most of these individuals who make too much money to qualify for Medicaid are willing to contribute a fair share of their own income to a health insurance plan, if only they had access to a reasonably priced private plan.

The fastest growing segment of the uninsured population is young adults. There are 8 million 18 to 24-year-old Americans without health insurance. We need to find a way to pull these

people into the system, which is breaking under the strain of rising costs and an aging population.

Like my other colleagues here tonight, I am going to read a letter that I received earlier this year from a young man in my home State of Rhode Island.

Mr. Speaker, it reads: "I am a 28-year-old resident of Warwick. The cost of medical care is astronomical. I do not have a job which gives me coverage, so I was forced to pay over \$400 a month to Blue Cross for my health coverage. Well, I am no longer able to afford that incredible price and they have dropped me. I then applied to the Department of Human Services in Buttonwoods for medical assistance, and I was rejected. They said my medical condition was not severe enough to warrant assistance.

"My medication and medical bills are far too expensive for me to afford more much longer. I live with my family and they have been giving me help, but it is an extreme strain. I have just recently gotten a job delivering papers, but that will not be much help.

"Are there any Federal programs which could help? Are there any State programs? There seems to be no information out there for people such as myself who are in desperate need of medical coverage. I can afford maybe \$100 to \$200 per month for coverage, but I do not know of any private companies in Rhode Island that provide that.

"I have heard of the Neighborhood Health Plan of Rhode Island and Right Aide, but they seemed designed for families and I was told initially I probably wouldn't qualify. What about singles such as myself?

"Do you or does anyone on my staff know how to help? Can you direct me to any government or private agencies, and can you tell me of any private health insurance companies in Rhode Island, aside from Blue Cross, that provide reasonably affordable health coverage? I have looked on the net, but most of what I see are scams and junk web sites.

"Also, I am a registered Democrat and I am aware of your work on health care, but I think that the U.S. Congress and our State could do a much better job at getting the uninsured more help and more information. Thank you."

Mr. Speaker, my constituent sees the value of health coverage and has expressed a willingness to contribute a fair amount of his salary towards the cost of his medical care. Yet, because he does not fit into one of the categories I described earlier, there are no affordable options available to him.

Mr. Speaker, this is morally and economically wrong. We must begin a meaningful dialogue about how to reach those who have been left out of our health care system.

I am presently at work on a health care proposal that will assure a system that can include people like my constituent. The plan that I am proposing, that I am working on, uses the Federal

Health Employee Benefit Plan as a model and would make a major step forward in achieving health care for all.

Mr. Speaker, I look forward to working with my colleagues on this effort and other legislative initiatives that will extend the promise of health insurance for every American.

Mr. Speaker, again I want to thank my colleagues for organizing this special order on such a critically important issue at this time.

Ms. BALDWIN. Mr. Speaker, reclaiming my time, I thank the gentleman.

Mr. Speaker, I want to thank all of my colleagues who this evening amplified the voices of their constituents. The crisis is dire. I know that we are rededicating ourselves as Democrats, but also as Members of this body who have constituents in dire need, to work towards the day where there is no need to have a Cover the Uninsured Week because we found solutions, workable solutions, to this problem.

Again, I thank my colleagues who shared this hour.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I rise this evening to speak for a few moments about the almost 44 million Americans, including 8.5 million children, who are uninsured.

Mr. Speaker, this week is Cover the Uninsured Week. As part of an intense effort to highlight the state of the uninsured in this country, more than 800 national and local organizations are working together and holding events, including health and enrollment fairs for uninsured Americans and health coverage seminars for small business owners.

In a study released yesterday, the Kaiser Commission on Medicaid and the Uninsured estimates our Nation will spend \$41 billion to care for the uninsured in 2004. Federal, State and local governments will bear as much as 85 percent of these costs according to the study.

This study comes on the heels of new research from the Robert Wood Johnson Foundation, the national sponsor of Cover the Uninsured Week, which found that 20 million working adults in the U.S. are uninsured.

In my home State of California, approximately 6.5 million State residents were uninsured for all or part of 2002. Mr. Speaker, the uninsured are not only the poor or unemployed. In California, 2.5 million working residents are uninsured. That's 16 percent of the working population.

According to the Kaiser Family Foundation, between 2000 and 2001, the number of the uninsured increased by 1.4 million, and low income Americans are the most likely to be uninsured.

Mr. Speaker, earlier this Congress, I introduced legislation, H.R. 1143, the Keep America Healthy Act. My bill amends title XIX of the Social Security Act (SSA) to permit States to expand Medicaid eligibility to uninsured, poor adults.

The eligibility is expanded through the creation of a new optional Medicaid eligibility group for individuals between the ages of 21 and 65 whose family income does not exceed a State-specified percentage of up to 200 percent of the applicable poverty line.

I believe that Congress must take steps to insure the health of all Americans. In addition,

the working poor should be confident that unfortunate incidents would not affect their ability to provide for their families. These citizens are left vulnerable by the lack of Federal health care assistance available to them, and my bill seeks to fill that gap.

Mr. Speaker, we all are aware that there is a health care crisis in our Nation, and while there are no easy solutions, I ask my colleagues to support not only my legislation, but also the mission and goals of Cover the Uninsured Week.

Mr. RODRIGUEZ. Mr. Speaker, I rise today in observance of Cover the Uninsured Week.

Over 40 million people are walking the streets of America without the most basic of protections. A protection that you and I have, and one that has been afforded to our families. But for many working families, the prohibitive cost of health insurance puts it out of reach. And this can lead to tragic consequences. The uninsured are more likely to be in poor health, receive diagnoses too late, and use the emergency room for primary care.

Research also shows that being uninsured has a financial cost too. After jobs loss, being uninsured and getting sick is the most common reason people file for bankruptcy.

While the cost for solving the problem of the uninsured is high, the cost for ignoring this problem is even higher.

In Texas, a huge budget deficit led to drastic cuts in the CHIP program and optional Medicaid benefits. While some restorations were made, those cuts will undo any gains that Texas has made in the fight to increase access to care.

We must begin to think of healthcare as an investment. It is an investment in our children, in our workforce and in creating a better quality of life that we all strive to achieve. Until we can guarantee coverage for all, then we must take measures to fill in the gaps.

Earlier today we heard spirited debate about the merits of Association Health Plans and revisited the debate on medical malpractice reform. But the bills that we considered would do little to address the problem of the uninsured.

In fact, the legislation could actually make people worse off as was the case with the Small Business Health Fairness Act, H.R. 4281. Under this plan, the CBO estimates that 80 percent of small businesses would see premium increases and as many as 100,000 of the sickest workers would lose coverage altogether. This is not the answer.

Instead, I urge my colleagues to cosponsor three bills that if enacted could provide help to over half the uninsured.

The Family Care Act will make it possible for the working parents of children who are enrolled in Medicaid or CHIP to also participate in the program. This bill will promote health for the entire family as people work their way up out of poverty.

Second, The Medicare Early Access Act is designed to assist uninsured people who are 55 and over, but not yet eligible for Medicare. The bill would allow this pool to purchase Medicare for a premium and a tax credit to help defray the cost of the premium.

Lastly, the Small Business health Insurance Promotion Act would provide tax credits to eligible small businesses, including the self-employed, to help secure affordable health insurance.

This week, Robert Wood Johnson Foundation released data showing that Texas has the

highest rate of uninsured working adults at 27 percent. These are the folks that are out there working hard and paying taxes, but don't make enough to provide for their own benefits.

We must begin to tackle this problem by creating programs that will help small businesses offer health insurance to employees.

I would like to thank the Members who have worked tirelessly to promote and improve upon these bills, especially Representative DINGELL and Representative RANGEL. This three-pronged approach will help increase access to health insurance.

Again, I urge my colleagues to cosponsor these bills. Let's provide an answer to covering the uninsured.

PUTTING PEOPLE IN CHARGE OF THEIR OWN HEALTH CARE

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I have had the opportunity for the last hour to listen to some of the rhetoric coming from the other side. I will just have to say we have heard a lot of stuff on the floor of this House today about health care and medical liability insurance.

My firm belief is we need choices and options for the uninsured. Unfortunately, the other side chooses to characterize that as a piecemeal approach, but I believe that is an approach that is working and will continue to work, if we will simply give it the chance to do so.

There are fundamental differences between the Democrat side and the Republican side of this House. The Democrats believe that the government should be in charge of all health care and mete it out as they see fit.

Mr. Speaker, I worked for over 20 years as a private practitioner, as a physician, back in Texas, and I will just tell you I cannot imagine giving up that control over that much of my life to the Federal Government. I would much rather see people own their health insurance, be in charge of their health care themselves. I believe if you put people in charge of their health care, they will ultimately make better health decisions, and they will certainly help keep the costs of delivery of health care down.

One of the really painful things that I had to listen to over this past hour was discussion of the initiatives that were passed on this House floor today, particularly medical liability reform and the Association Health Plans. Yes, those are Republican initiatives, and a Republican House has passed both of those initiatives, well over a year ago in the case of medical liability insurance, and last June for Association Health Plans.

But, unfortunately, 440 feet away from us, we cannot get that legislation taken up; not because our Republican colleagues are opposed to this legislation, but because of the arcane rules of

the other body preventing that from even coming up to a vote on the other side. I think that is a shame.

Mr. Speaker, when the President came and addressed us in the State of the Union Address in January, he outlined three proposals that would help reduce the number of uninsured in this country. Remind you this was back in January, this was four months ago, so time is a-wasting.

What the President outlined, he said, "We already did Health Saving Accounts in the Medicare Modernization Act that I just signed into law last month. What I think we ought to do now is provide a full deductible for a catastrophic health insurance plan, so that someone could purchase that with before-tax dollars and put those contributions for the deductible into their Medical Savings Account and build wealth with that."

Mr. Speaker, I had a Medical Savings Account myself for 5 years before I came to Congress, and I will just tell you, that is a powerful way to build wealth in a savings account dedicated to your health care needs.

The President went on to talk about Association Health Plans. There is no aspect of Association Health Plans that involves cherry-picking. Far from it.

□ 2230

This allows a much larger group to capture the purchasing power of a large group and to disburse that purchasing power then amongst small businesses. I think that is an idea that only makes sense, and we ought to allow that to go forth. But unfortunately, again, the longest 440 feet in the world is the distances between the two Chambers here in this building.

Finally, Mr. Speaker, tax credits. I have no problem with tax credits. I believe they ought to be given to individuals and not small businesses. I believe if we provide small businesses the purchasing power of large corporations with association health plans, let us save the tax credits for the true working poor, those who otherwise would not be able to afford insurance, a prefund, if you will, that would occur at the beginning of every year to allow an individual to purchase health care or health insurance on their own, and that money would not be able to be used for any other purpose. It would not subsidize any other activity in that person's or that family's life, only expenditures for the purchase of health insurance.

Mr. Kondracke, who writes a column for Roll Call, not necessarily known as a friend of the President or a friend of the Republican Party, disparaged the President at the State of the Union address and said, my gosh, with these three proposals we would only cover about a quarter of the uninsured. Mr. Speaker, I maintain that if we have within our power, within our hands the power to cover one-quarter of the people who are right now in the ranks of

the uninsured, today, without any heavy lifting, we ought to do so. I urge my colleagues on the other side to encourage their colleagues to help us get those three commonsense solutions passed.

Finally, I have just got to say a word about medical liability reform. No, it is not the cost of the doctors' liability insurance that is driving up the cost of health care. No one believes that to be true; no one has said that that is the cause of health care costs rising. It certainly can limit access, as doctors decide they cannot afford liability insurance and drop out of the market or move to a more favorable market, but that in and of itself is not going to be driving up the costs of the uninsured.

What drives up the cost of health care with the problems that we have with our medical justice system right now are the costs of defensive medicine. A patient comes into the emergency room, midnight on Friday night, the doctor is called in to see them: gosh, it is probably just a tension headache and I can treat that conservatively and send them on their way, but if I miss the opportunity to do the CAT scan and to diagnosis the more serious illness, I will have a hard time defending that in court. That drives the cost of health insurance up.

STEMMING UNCONTROLLED ILLEGAL IMMIGRATION

The SPEAKER pro tempore (Mr. CHOCOLA). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. ROHRABACHER) is recognized for half the remaining time before midnight, which is approximately 44 minutes.

Mr. ROHRABACHER. Mr. Speaker, I rise to alert my colleagues to a vote that will be taken on the floor of this Congress next Tuesday. It is a vote that will mark a turning point for our country or will reflect a continued unwillingness by America's elected officials to do anything to protect us from the greatest threat to our national safety and well-being.

What am I talking about? Next Tuesday, there will be a vote on legislation that I have offered, H.R. 3722, which will attempt to protect us from a major decline in the quality of life and the quality of our health care due to the uncontrolled onslaught of illegal immigrants into our country and into our hospitals and emergency rooms. If left unchecked, illegal immigration will destroy the quality of life for many of our people.

It is unforgivable that government has refused to act when the evidence is clear: millions of people are being permitted to stay in our country illegally, and it is having a horrendous impact on the standard of living, safety, and quality of life of average Americans.

For tens of millions of Americans and legal residents, real wages have stagnated. The education of our children has been undermined, our health

care resources depleted, and the safety of our streets and neighborhoods and, thus, the safety of our families compromised.

This is not a back-burner issue. It goes to the heart of what America will be like tomorrow and, in some cases, it deals with a crisis of today. Yet, elected officials have remained silent about illegal immigration. Why? The American people need to ask themselves that question, because it is clear that the overwhelming number of the American people are troubled and enormously concerned about this onslaught of this uncontrolled, massive flow of illegal immigration into the United States.

But why are our officials not acting? First and foremost, I believe that many elected officials have been intimidated from addressing this burning issue. When I say intimidation, what is that all about? Is that against the law? Well, no, one can be intimidated in a number of ways. I mean that our elected officials are afraid to address this issue because they are afraid to be called racists. They are afraid to be called hate-mongers.

Let me note for the record today that I have been called many names when addressing this issue, and I believe that I have love in my heart for all of, not just our fellow citizens and legal residents, but I have love in my heart for other people. People who are malicious, people who are doing ill and bad things to other people, of course we do not love them. But the vast majority of people, even illegal immigrants coming into this country are wonderful people, and I have nothing but love in my heart for those people. But that is not the question of the day. We can be very caring about the rest of the world, but that does not mean we do not recognize that we have limited resources and that we can deplete those resources to the point that it will be harmful to our own citizens if we do not act responsibly.

Furthermore, it is not hateful to use scarce resources to provide for one's family. If one is taking care of their family, if one works hard and has a certain amount of money, and even if there are needy people down the street, down the block, it is important to care for your family first. That does not mean you have any less love in your heart for your neighbors and the people down the street; but first and foremost, caring for your family is itself an act of charity and love.

I am committed to doing something about the threat of illegal immigration, not because I dislike people and certainly not because I dislike people from other countries. Most people who come here, as I say, even the ones who come here illegally, are wonderful people. But we cannot take care of all of the wonderful people in the world and expect that it will not hurt our fellow Americans, in the same way that we cannot, as individuals and as members of a family, give away all of the family's money to people down the street

who might need some help and not expect if we give away too many of those resources for it not to have a horrible impact on our own family and, indeed, hurt our family. We Americans, of course, are very proud that our country represents every race and religion. So it would not be that we have in some way something against people who are coming here from another country. In fact, we are all descendant from people who originated in other parts of the world, with the exception perhaps of the American Indians. Yes, we are a nation of immigrants and we are proud of it. And we are proud also that our country today permits more legal immigration into our country than all the other countries of the world combined.

One million immigrants are permitted to come here every year, along with 400,000 refugees. With a population of 280 million people, we can expect that we will absorb this responsible number of immigrants. It has worked out for us well in the past, because the immigrants who come here legally need to be healthy, they need to be honest, and they need to be self-supporting; or they are not permitted to come here. We have no such controls on people who are coming here illegally, perhaps bringing diseases, perhaps criminal elements, perhaps terrorists.

Tonight, however, I want to draw the attention of my colleagues to the dire consequences of not stemming the uncontrolled flood of illegal immigrants into our country. One can be for a responsible and a sizable legal immigration without then compromising a position that puts one totally against a flood of illegals coming into our country, especially the uncontrolled flood of illegals that we have been seeing in the last decade. Millions of illegal newcomers are arriving in our communities. Every day, tens of thousands more of them arrive. If they are sick or they are criminals or they are terrorists, we do not know. This is a catastrophe in the making. It will lead eventually, if left uncontrolled, to a destruction of the American way of life, the very way of life that has attracted all of our forefathers and -mothers here and has attracted the legal immigrants who come to our shores legally and come with respect for our law.

The American people, they see what is happening. They can see what is happening in our cities and in our communities throughout the country. The American people see this, and they are seething with anger. Every poll shows that 60 to 70 percent of the American people are outraged that nothing is being done and their country is being taken away from them by an uncontrolled flow of people from other countries. Every time it comes to a vote, the American people express this cry for help to elected officials to do something about illegal immigration. Proposition 187 was the first time that that really came to a vote; and let me say,

10 years ago, no matter what people have heard about proposition 187, it passed in a landslide. It passed in a landslide when all of the major interest groups were against it, the major news media. All the name-calling you can possibly imagine was thrown at this little band of activists who put proposition 187 on the ballot. But even though an overwhelming number of voters voted for proposition 187, it was portrayed as some sort of a loss for the Republican Party, because Republicans by and large had supported and identified with proposition 187.

Let me note that there are people in this body, such as the gentleman from California (Mr. GALLEGLY), who represents many areas in which there are Americans of Mexican descent who represent a majority of areas in his district, but the gentleman from California (Mr. GALLEGLY) tells me that many of the cities where the majority of the population are legal immigrants and where Americans of Mexican descent hold a majority, that many of those communities voted by majority in favor of proposition 187.

Many people are afraid, even with that staring them in the face, the evidence that Mexican Americans, like everyone else, feel that their way of life is being threatened and their standard of living and their families are being threatened by illegal immigration. Many people still hesitate, thinking that they might be insulting our American citizens who happen to be of Mexican descent. Well, there is no Californian that does not respect our Mexican American and Hispanic fellow citizens and legal residents.

California is, by its very name and by the names of our cities and our streets and our culture, deeply influenced by the Hispanic culture and by the Mexican American culture that has been part of our State since before it was a State, and we are proud of that as Californians. We are proud of that. And yet many people are afraid to be called a racist. They are afraid to be called racist or hate-monger; they are afraid that that might make some people who are right down the street from us, our next-door neighbors or others, feel that we have something against them.

Well, turning one group of honest citizens against another in order to keep the flow of illegal immigration into our country has worked to intimidate people, but it is a dishonest tactic; and we will hear it over and over again. I would alert my colleagues and the American people to pay no attention. The real hate-mongers and the real people who are engaged with racism are the ones who would suggest that we cannot deal with problems like illegal immigration unless we can call each other names.

Well, I would suggest that today the situation has gone so far down the road toward disaster that we have got to come to grips with this illegal immigration flow, or there is going to be irreparable damage to our country and to our people.

□ 2245

What else, of course, has prevented us from dealing with illegal immigration? It is not just a fear of being called a name and racist, et cetera; although that is a powerful factor. There is another factor involved, and that is, there are some enormously powerful interest groups who believe they are benefiting from this massive flow of illegal immigration into this country.

Who am I referring to? I am referring to big business who want to ensure that they keep wages down and suppress wages, and I am talking about the liberal left wing of the Democratic party who believes that they will exploit illegal immigrants for their own electoral purposes, that they can politically exploit them.

So we have two groups of people who want to exploit illegal immigrants: big business and the liberal left wing of the Democratic party, both trying to exploit these helpless people who come to our shores.

These powerful forces obviously do not represent the interests of the American people. First of all, let us note this. It is estimated that if illegal immigration is unchecked, and everything else being equal, the population of our country will jump from 280 million people today to 420 million people just a few decades away. Is that in the interest of any American to have that kind of crowding, that type of incredible increase in the number of people that we have to deal with and the demand on our scarce resources? That is what will happen if we leave illegal immigration, with millions of people coming in every year, and let it go unchecked. If that is going to happen we are going to end up with a half a billion people here in the United States of America.

Why are we letting it happen? There has been a lot of other things happening, and people know this is attributed to this massive flow of illegals. Yet we continue to let those things happen. Wages, for example, are being held down. There is no doubt about it; there are some people who benefit from low wages, the people who own the companies, people who want servants, et cetera. But most people, most Americans, are damaged by the product of illegal immigration, and I might add this keeping down of wages is changing the demographics in our society, thus changing the American way of life.

Let me note, it is a big lie that illegal immigrants are only taking jobs that Americans will not do. No, that is the great lie that is being used to justify this influx into our country, which is bringing down the wages of all of our people. No, no. Americans will do just about any job, but they will not do it at the pay level certain people are offering those jobs at. The pay level in our country for certain jobs, yes, Americans will not take that, but if we did not flood our country with illegal immigrants, those jobs would have to pay more money to get them done.

A good example of this is a job that I held when I was in college. When I was in graduate school, I held the job of a janitor. Yes, I cleaned toilets, and there is nothing wrong with that type of work. In fact, it is very honorable work. Any work where you are taking care of your own needs and being self-sufficient is honest work and dignified work.

During this time period after I, of course, got done with that job, that was 30 years ago, the GNP of our country has dramatically increased. We have had a tremendous increase in the GNP of our country, in the wealth of our country. This is a much richer country now than it was when I was cleaning toilets as a janitor, but if you look to see what janitors are making today in real terms, in real money, they are making almost exactly the same pay as I made when I was working as a janitor.

So why is it that the country can be so much more prosperous, there is so much more wealth here but the people working in regular jobs and more lowly jobs are not making anymore money? Where is their share of the prosperity we have enjoyed?

Their share is being gobbled up at one end of the spectrum by wealthy people and being gobbled up by government, I might add, and bureaucracy, and who is not getting it are the average working American people.

They say, well, no one would have taken that job as a janitor now. Yes, they would have taken that job had we not had a major influx of illegals in to take this janitorial work. What would have happened? They would have had to pay someone, like myself when I was in college, more money to do that job, and then you can bet that somebody would have invented a janitor machine, a toilet cleaning machine that would have cleaned the potties, maybe 100 potties. A man or a woman might be earning \$50,000 a year to do a janitorial job.

There is nothing wrong with paying someone those type of wages for that type of work. As I say, any honest work is dignity, and the law of supply and demand will determine how much wages are paid, but instead of having one man working a machine, working technology to keep up our buildings and our bathrooms, we instead have opted in the society to bring in illegal immigrants, give them the jobs, but there are now five or six of those people and they are living in substandard housing with families that are deprived and are bringing the standard of living of their neighborhood down. These are people who are not living the American dream but, instead, are living the type of nightmare that they left in their home countries where there are very poor people and very rich people.

So what we have done, instead of giving working people in America an avenue of earning enough money to buy their own home, we have created a new class of poor people. Is that working

for the interest of the American people of our country? Is that what we want? This is on top of, I might add, of course, the legal immigrants that we permit in, a million legal immigrants and 400,000 refugees every year.

Pressure is being felt throughout our society because of this massive flow of illegals into our country. I am suggesting millions of people are coming here every year illegally, and we are not doing anything about it, and the pressure is being felt. We can see it. The American people can see it. They can feel it, but nowhere is that more evident than in the providing of health care for our people.

Obviously we can feel it in other areas. We can feel it in the area of education. We have seen that in education, the quality of our education in California is going down. Everyone talks about class size in California. They are taking illegal immigrants out of the equation. In California, class size is not going up. You take the illegal immigrants out of the formula in California, education is doing very well, and our teachers would have time to teach our own students and give them a quality education; but no, we are permitting that to be eroded. For the average person out there who depends on educating their children in the public schools, we have permitted illegals to come in in order to help people who live in gated communities and send their kids to private schools. So education is being affected.

Our criminal justice system is being affected. We can see that throughout California as well, and health care is being affected.

Emergency health care is something that all of us depend on at one time or another. We just heard before us a few minutes ago by some of my Democratic colleagues talking about all these uninsured Americans, and there are uninsured Americans who do not have health care in this country. I have a piece of legislation aimed at trying to make sure that we do not put the status of illegal immigrants above our concerns for our own American citizens who do not have health care. My bill, H.R. 3722, will come to grips with an element that has just been put into our system unbeknownst to most American people.

What we did not know and what most people do not know is that a provision was slipped into the Medicare bill of a few months ago that passed through this House, and this provision established a \$1 billion fund to compensate American hospitals for providing emergency health care to illegal immigrants. Let us make this clear: \$1 billion of Federal money going to compensate hospitals for providing emergency care to illegals. Thus, we have officially opened the door to our own Treasury and to the taxpayers' money of providing services for illegal immigrants into our country.

We are providing this and it is \$1 billion to start off with, and you can

imagine that 10 years from now we are talking about 10s of billions of dollars, and we are talking about attracting more and more people here to the United States of America in order to get health care for their families.

We cannot spend money providing health care for people who come here illegally and not expect that we are not going to have even more people come here illegally to get that health care. It does not take a genius to figure that out. We have seen what has happened. We have seen this flow continue. We had an amnesty back in 1986. That amnesty was supposed to say there will be no amnesties after that. What happened? What happened was a dramatic increase in illegal immigration into our country.

The American Hospital Association reports that there were \$21 billion in uncompensated health care services provided last year, and illegal aliens amount to 43 percent of those who do not have health insurance in this country. So 43 percent of all these people we are talking about that do not have health insurance are illegal immigrants. That is about \$9 billion we are spending already for illegal alien health care. Yet we have established a fund that will provide health care for illegal immigrants' emergency health care.

What does that do? What does that mean? That means that we have created a perverse incentive for our hospitals to take care of the illegals who end up coming to their emergency center and treating the Americans and legal residents who come there, who do not have health insurance, as second class to the illegal immigrants. We have got the priorities totally backwards, but that message is not going to be lost on people overseas. They know they can come here and get that health care.

We all remember Jessica Santillan. She was an illegal alien who died after receiving not one, but two, heart and lung transplants in North Carolina. The Santillan family paid \$5,000 to be smuggled across the border to get here to have care, care that they knew would take a long time to get if they could ever get it at all in Mexico.

There are American citizens who desperately need organs, and they are being knocked out of line by a family who broke the law to come here. Yes, that was a nice, little girl and that family's a very nice family. We hear stories in the newspaper every day about people who come here from China and elsewhere in order to get their families treated by America's health care providers. Yes, that touches your hearts, but let us be fair to the American people.

This is depleting our health care dollars that should be going to our own senior citizens. If we cannot provide medical care for our senior citizens, we cannot provide them medicines, how is it that we can provide \$1 billion to treat illegal immigrants and then we are going to get more of them?

My bill will come to grips with this particular issue, H.R. 3722. It is meant to deal with this travesty. If passed, it will signal to the leadership that the American people no longer will stand for this type of providing services for illegal immigrants.

What does this bill do? It requires that hospitals ask questions that they are going to ask anyway. The hospitals are opposing my bill because they said it is going to add all kinds of questions that you have got to ask. No, I have got to tell you this. In order to get those funds to get compensated for treating those illegals, what we have got to do is ask questions anyway. My bill provides almost no extra paperwork. When you hear that argument, it is a lie.

□ 2300

What we have done is we have asked for a photo to be taken or a fingerprint, and one other question to be asked: Who was your last employer?

And I might add that my bill also says that if that last employer of this illegal who is now in the emergency room to get care, if he has not taken the due diligence to even make a telephone call to verify that this employee is here legally or not, and that system will be in place in 2005, well then that employer is required to pay the bill, not the taxpayers. The employer will pay that health care bill for being so arrogant as to try to hire a guy, probably not even paying his taxes and not giving him any health insurance.

So, number one, it suggests the hospitals have to take a minimum of attention to collect a fingerprint or a picture of this person, and enough information, as well as a few minor questions that they ask anyway, and that that information be provided to the Immigration and Naturalization Service and the Department of Homeland Security, and that we expedite deportation of that person who is here taking hundreds of thousands of dollars of health care away from our people.

If that person is here illegally, they should be deported; and that information should be available. But the hospitals are not required to do anything else than that which is minimal. It will not cost them time or money. And right now, by the way, these hospitals report abuse, spousal abuse, child abuse. That is all reported. They can do this. And, as I said, we require the employer then to pay for it if he has not taken due diligence.

Most importantly, this bill limits the amount of health care that we are going to provide illegal immigrants if they come to the emergency room and expect treatment. This is the all-important provision. Today, we have people coming from all over the world here illegally. They arrive at the emergency room and they say, you have got to take care of me. I just mentioned this young lady, this young girl from Mexico who we spent millions of dollars on, and then her family ended up suing the

hospital for heart and lung transplants. No. Under my bill, the hospitals will not be required to do anything except treat anyone who comes in for a life-threatening condition.

If an illegal immigrant is there and they want to have leukemia treatments or treatments for genetic problems they have been carrying all their life, the hospital only has to treat that patient to the point that that patient then can get to an airport or get to a transportation system that will take them back to their home country to be treated for that disease there. That is where they should be treated, instead of having our hospitals being forced to pay hundreds of thousands of dollars for leukemia treatment, for example.

There was a fellow in my congressional district who came here from El Salvador, and he was dying of leukemia. He received \$300,000 worth of treatment for leukemia. That \$300,000 comes from the money available to take care of our children. It comes from the money that is available to take care of our seniors. Imagine, \$300,000. It is a crime to permit someone who has come here to this country to deplete our resources like that.

Now, we are going to have a chance to vote on this next Tuesday; but it is not going to happen on its own, because H.R. 3722, which is the bill, is going to be the target of every interest group that you can imagine that wants to keep the flow of illegal immigration coming into this country. But the American people need to know that H.R. 3722, my bill, which will be on this floor next Tuesday, is going to be voted on. And the decision that is going to be made is the decision that we have limited health care dollars in this country; so are we going to spend them for illegal immigrants or are we going to try to get control of this situation so our health care dollars are going to our own legal residents and our U.S. citizens.

Is that hateful? Is that racist? Is that a horrible thing for people who care about other people to do? I say that that is the loving thing to do. I say that you can have love in your heart and try to be responsible. We know that if we try to do everything for everybody, we will end up not being able to do anything for anybody. We have seniors right now that cannot afford their medicines, yet we are talking about spending billions of dollars to take care of illegal immigrants.

Now, the only way that I got this vote to the floor, the only way that this bill, H.R. 3722, was permitted to come here to the floor for a vote was that they needed my vote. The leadership in the House needed my vote on the Medicare bill.

I voted for the Medicare bill because I felt that our health care had evolved now so that a lot of people who depended on operations and the type of things covered by Medicare in the past now took care of these problems by using pills and medicine. So we had to

evolve so we could help people get those pills and medicine as they get to be older. Well, that bill only passed by one vote as it went through the House. And I voted for that and I am proud of that.

Then it went over to the Senate and that is where they stuck this provision in, this provision of a billion dollars, which is of course an installment. Ten years from now it will be \$20 billion. We know that. So they stuck this provision in, and on the way back they did not have enough votes to pass the Medicare bill. That is why there is a miracle that is going to happen here next Tuesday.

They needed my vote in order to get the Medicare bill passed, and I said I cannot vote for this with this provision in here. I already voted for it when it was not in; I cannot vote with it in here. Unless it is mitigated, I cannot vote for this bill, and the bill was going to go down. The leadership said, what do you mean by mitigated. I said, I need to bring a bill to the floor that will undo the negative impact of the money that we are going to provide for illegal immigrants' health care in this bill. They said, you have a deal. We will let you bring this to the floor and the people of the United States will be able to hear the arguments and your colleagues will be able to vote up or down on the legislation that you have in mind.

That is how this bill came to the floor for a vote. The American people have to be involved in deciding this issue when this bill comes onto the floor on Tuesday. H.R. 3722 is very easy to understand. It means limited health care dollars are going to go to illegal immigrants, or it means that we are going to try in some way to restrict the use of our limited health care dollars in the servicing of illegal immigrants.

As I say, we have a situation in this bill that goes to the cost of illegal immigrants as well by making sure that our hospitals no longer feel compelled to provide extensive services, like cancer treatments and genetic engineering and bypasses and things to help people who are not in a life-threatening situation. We cannot afford to do that for illegal immigrants. We cannot afford to do it.

First of all, it is unfair to our own U.S. citizens to have a fund that will compensate hospitals for taking care of illegal aliens who do not have health care insurance, but then we are not doing that for our own citizens who do not have health care insurance. That is wrong. It is immoral, and it is wrong.

We need to make sure when the illegal immigrant is there that we do not end up spending massive amounts of money. The only money that should be spent is in case that person, his or her life is in danger at that moment. We cannot afford anything else. There are some people who believe that we can do everything for everybody. They never vote against any spending in this body.

They vote for any new government program. I do not know how they can think they are being responsible, but they do.

I can tell you right now, we cannot be the HMO of the world. If we try to be the HMO of the world, and we attract people from all over the world, which we are doing now, and taking care of all their maladies and all their health care problems, we will be doing so at the expense of the American people.

Yes, illegal immigration is out of control. It is dramatically hurting our way of life. We have wages that have been kept down so some of our people cannot afford health insurance, and now we are taking care of illegals and not their health insurance. We have people now who come to this country and will work and not pay taxes, so that means they are not getting health insurance, they are not paying taxes, and that means doubly that we end up paying for their bill.

□ 2310

Who are we really subsidizing? We are subsidizing the employers of these people who are basically not only exploiting them, they are exploiting the taxpayers. The people are getting filthy rich by hiring people who have come here illegally and not providing them any health care and not having them pay taxes to make up for the services they are consuming here. This has to be stopped. It is bringing down the wages of our people and it is destroying the American way of life.

We cannot sustain millions of people coming into this country without harming our own people. Wake up, America. We can do something about this, but we have got to take a stand.

Next Tuesday, it will be very easy to understand, except there is going to be all kinds of rhetoric about the burden of paperwork that we are going to put on the hospitals. By the way, there is no burden of paperwork unless the hospital wants to be compensated. H.R. 3722 will not require the hospitals to do anything if they do not want the Federal dollars to compensate them for taking care of that illegal immigrant.

If they want to opt out, there is no burden. But if they want compensation, they are going to have to ask certain questions to prove this person was illegal to get compensation. My legislation requires a minimal amount, maybe an extra 30 seconds, enough to snap a Polaroid shot and ask who the former employer is. That is it. All they are doing is putting this information into a computer that is available to the Immigration and Naturalization Service, and then the legislation requires our government employees at the Immigration and Naturalization Service to look at that information and they will analyze it and they will begin deportation against an illegal immigrant.

Why should we do this? First, some will say it will mean more people are not getting treated in our society.

There will be more sickness in our society.

Let me note that if Members want to see sick people coming to America, let everybody in the world know if you get to America, you are going to be treated. You are going to get free health care. They are going to bring their kids here with polio and everything else because they know their family will be treated in the United States of America. If we want to spread disease in our society, let us make our society the HMO of the world, and that is what we are doing here today.

No, this is not an imposition on the hospitals. They can opt out if they want. It is no more bother than what they are already doing. For example, child abuse cases go to the police. They make a report to the police; or some spousal abuse case, they do that already. No one is complaining about that. But let us compare what illegal immigration is doing to those situations.

This illegal immigrant from El Salvador who died with leukemia and taking with him \$300,000 of U.S. tax dollars with him, how bad is that? Is that awful? The girl in North Carolina, we spent \$5 million on her. Why is that bad?

Today if that guy would have lived and gone into a drugstore or liquor store and stolen a couple hundred bucks, he would be in jail. If one of our people, our citizens, goes into a store and robs it of a couple hundred dollars, that person is going to jail. But instead, we are taking people who have entered the United States illegally or have overstayed their visas and are just here illegally, and we are permitting them to consume hundreds of thousands of dollars, taken directly from our pockets; and the money available for providing services, we are permitting them to take this money. They are stealing from our society, but their accomplices are the people in our government who refuse to come to grips with this grave threat to our society.

We all know that we have a threat here to the institutions, our health institutions and to our schools. We also know that with illegal immigration out of control, we do not know if these people are terrorists, if terrorists are coming here. We have to come to grips with this.

We have to look in the mirror and say we are proud to be a country that is made up of every race and every religion. We are proud to be a Nation of immigrants. We are proud that we have more legal immigration in our society than any other country in the world, but we are not going to be browbeaten and called names in light of our generosity, simply for doing things that are responsible in protecting our own citizens and legal residents.

We have got to watch out for each other. We have to care for our other fellow Americans more than people who have come here illegally. If we do not, no one is going to stand in line and

go through the process of legal immigration.

This is a situation that threatens our way of life. We have to proceed with love in our hearts, but we have to proceed with determination to turn the situation around. Next Tuesday, Members of Congress have got to know that their constituents will be judging them on their vote on H.R. 3722. No one should be fooled by any smoke that is blown into the air to try to confuse people on the issue. This is the issue of using scarce health dollars for illegal immigrants versus using those dollars for American citizens and legal residents.

People need to have their voice heard in Washington, D.C. Elected officials need to come to grips on this, and we need to have more votes on this than simply those votes that are required whenever there is some type of arrangement made because votes are needed on another piece of legislation.

There are good people on all sides of this issue. There are good people who are concerned about large numbers of illegals. We have 12 million illegals in this country, but we have to be more concerned with American citizens and legal residents.

IRAQ WATCH

The SPEAKER pro tempore (Mr. CHOCOLA). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized until midnight.

Mr. INSLEE. Mr. Speaker, my colleagues and I tonight have come to the floor in a continued series of discussions that we have styled as the Iraq Watch. We, unfortunately, have had to be involved in this now for several months. We do so because we believe very strongly that this situation in Iraq is of such high challenge that the U.S. Congress owes an obligation to be involved in the tough decisionmaking and not just punt to the executive branch of the United States Government. We believe that there are some serious issues that need discussing, and we intend to do so tonight.

But before we get to some of the controversial issues that need discussion, I think it is important to note the unanimity that this country has and the total bipartisanship we have in three or four very central elements in this challenge pertaining to Iraq, and I want to list four of those.

First, all of us are dismayed and appalled at the savagery of the United States contractor who was executed in a horrendous act that Americans are seeing and hearing about on their television screens tonight. I think it is important for us to recognize the sense of outrage that we need to maintain as a healthy sense, and not to give it up and say it is another act of violence. We need to retain our sense of outrage at their behavior.

Second, we have a bipartisan consensus in this country that we are dismayed and disturbed by the occurrences in our prisoner of war camps. Today, as Members of Congress, we join in a bipartisan way, unfortunately, to review the incredibly disturbing still pictures and videotapes which still have not been released of some of the things that went on in the prison camps.

□ 2320

There is a bipartisan recognition that those actions damaged our potential success in Iraq and that we in a bipartisan way want to find a way to make sure that never happens again because we have too many challenges already in Iraq to add to those challenges by self-inflicted wounds. Third, we have a national consensus that extends our feeling of loss to many of the innocent Iraqis who have found themselves in harm's way as a result of this action. Fourth, and perhaps this is the most important for us to reiterate, in any discussion of Iraq, there is absolute unanimity across this country in expressing pride and respect for the heroism and the professionalism of our troops in the field in Iraq. No matter what we say tonight about the civilian leadership who unfortunately we believe have made some very grievous errors to our soldiers' disadvantage, it is very important to realize there is total consensus in this country and in the House of Representatives respecting the dedication of our troops, notwithstanding the difficulty in the command and control structure that happened in these prisons. Those are four points of consensus and unanimity that we have in this country that we intend to make sure we note.

With that, I would like to turn to some of the challenging things that we need to talk about tonight, if I may, if the gentlemen will give me a few moments. The unfortunate truth is, however, that the professionalism of our soldiers in the field, hundreds of thousands of whom are serving with distinction, has not been matched by some of the civilian decisionmakers pertaining to the Iraqi operation. There, unfortunately, have been a series of substantial errors which have posed challenges to us that now we have to dig ourselves out of. I want to mention 10 of those very quickly in summary form to set the framework for our discussion tonight. There are 10 serious mistakes, errors, of judgment and negligence that have been made by our civilian authorities in the executive branch of this government which are now putting us in a very, very deep hole, of what was already a challenging position. I will quickly summarize those 10 that we will discuss tonight.

First, the United States Government told the American people in unequivocal terms that there was, and I think I quote from the chief executive, no doubt but that Iraq possessed and was deploying some of the most lethal

weapons systems devised by man before this war. That statement unfortunately has proved to be false. It is one that we should think seriously about as we move forward in Iraq.

Second, the executive branch and the civilian authorities of our Nation told the American people in unequivocal terms that there was a clear, convincing and cogent connection between Iraq and the heinous attack on our Nation of September 11. That assertion after months and over a year of digging has not turned out one solitary shred of evidence to substantiate that assertion; and as far as we know tonight, that assertion was false. Why is it important to recognize the falsity of those two assertions preceding this war? It is important to understand both the Iraqis' response and the world's response and now our difficulty in obtaining assistance for our troops in the field because the war started on two basic falsehoods, and this is a recognition that we have to have as we form a strategy to have success in Iraq.

The third issue. We were told in very clear terms and this Congress was told in many briefings that we would be welcomed as liberators, we would be welcomed with rose petals at our feet. The savagery that our men and women who are serving in Iraq have seen was hardly a sense of liberation. Why is this important? It is important because it explains some other failures by the civilian leadership in our Nation.

It explains the fourth failure, the failure to have adequate troops on the ground at the time the Iraqi Army collapsed. We had multiple truth-tellers who told the truth to the executive branch, what was needed in Iraq; and they have all been fired. General Shinseki told the President of the United States and the Secretary of Defense that we would need several hundred thousand troops on the ground to prevent Iraq becoming an infested place of looting and anarchy the day after the Iraqi Army collapsed. He was ignored and then fired.

General Zinni essentially said the same thing. He was ignored, then he was fired. We have seen this as a consistent pattern of truth-tellers about Iraq. When Joe Wilson blew the whistle on the falsehood we heard from that Speaker's rostrum during the State of the Union, his wife had her job diminished by secretly outing her as a member of the CIA. The sad fact is advice given to the civilian authority has not been followed.

The fifth error. We knew that to bring democracy to Iraq, we need to bring democracy to Iraq. The way to bring democracy to Iraq is to have elections. The first proconsul we had, Jay Garner, said, let's have early elections; we might get the Iraqis to buy into this system. He was fired. He was let go. The successful example in southern provinces of Iraq which has had successful elections is now not being followed, and we have no idea from the plan from the administration

when that may occur. We need elections in Iraq.

The next error. We have failed wholly to build an international assistance for our troops. This needs to be an international responsibility. American taxpayers should not be the only ones footing the bill in Iraq. In fact, the rest of the world footed the bill for the first Persian Gulf War under the first President Bush. Now the American taxpayer is paying this almost lock, stock and barrel both in blood and in treasure.

The next error. We consciously sent, and when I say "we," I mean the executive branch in the United States, consciously sent American men and women into battle without armor. We knew we were sending people into the warren's den of RPGs, rocket-propelled grenades, improvised explosive devices; and we sent them in these little thin-skinned Humvees to drive around for a year and a half, and we have had over 700 lost Americans, many of whom because we did not have adequate armor in the field. Now, yesterday, when we went through the streets of Baghdad, we went in armored personnel carriers and we did not lose anyone, which are impervious to rocket-propelled grenades and a lot of IEDs. We ignored the clear advice that we needed a stronger, more well-armored force in Iraq, and we lost sons and daughters because of it. I will say a good thing for this administration, they are now finally beginning to rush to this battlefield as fast as they can the armor we need.

The next error we had, I think it is number seven, we did not even have body armor for these people. We did not have flak jackets.

Mr. STRICKLAND. Will my friend yield?

Mr. INSLEE. Briefly. Then I need to complete my two more.

Mr. STRICKLAND. May I, with kindness, challenge a statement my friend just made. My friend from Washington said the administration is rushing as quickly as they can to provide the armament our soldiers need. I think that is not the case. The only company that produces up-armored Humvees that the Pentagon does business with is an Ohio company from my State of Ohio. That company is located in Fairfield, Ohio. They are capable of producing up-armored Humvees at the number of about 500 per month. The Pentagon, although we desperately need them, is only buying about 300 a month. So even in this case, where they should be protecting our soldiers as quickly as possible, they are not doing what they could and should be doing and they are not doing it, certainly, as rapidly as possible.

So when it came to the body armor, and the President has actually accused his opponent for the Presidency, the Democratic nominee, of voting against body armor for our troops, I think they are talking about that \$87 billion supplemental, the fact is that at the beginning of the war in Iraq, when our soldiers first went into that country, many of them went in without body

armor to protect them. That was many months before we voted on that supplemental. Many months. It was the President, it was Mr. Rumsfeld, it was this administration, this Pentagon that sent our soldiers into harm's way without adequate body armor. It took them an entire year from March when the war started until March the following year before all of our soldiers were outfitted with this body armor. Even tonight as we sit here and stand here in the safety of this House Chamber, there are soldiers in Iraq who are driving around in Humvees that are not adequately armored, and this Pentagon is not solving that problem as quickly as they can. I thank my friend for yielding.

□ 2330

Mr. INSLEE. Mr. Speaker, I thank my friend for the calculated and exact improvement of my discussion.

Mr. STRICKLAND. It is a matter of life and death.

Mr. INSLEE. It is. And, Mr. Speaker, I thank the gentleman for leading on this issue about this flak jacket failure.

I do want to make the point, though, I think the administration has made some changes in its policy that are starting to move in the right direction, but they are a year, and we have suffered dramatically as a result of that. We welcome these changes that we are seeing now. Now the President says now he wants the U.N. to come in and help us. But frankly it is very difficult, after we stuck our finger in the eye of the rest of the world, to encourage people. But we want to encourage the administration to move.

And I will just mention two other things, and then I will yield to my colleagues. Two other areas: One, this administration has not proposed a single plan on how to pay for this war. Every single dollar that is being spent in this war is coming out of the backs and the futures of our children of deficit spending. We have a \$500 billion deficit, and this President was not forthright enough with Americans to even put in his budget one dollar for the Iraq War, knowing that every dollar he put in the Iraq War would be additional deficit spending.

Winston Churchill said, "All I have to offer you is blood, sweat, toil, and tears." We cannot now just tell the people of America let us fight the Iraq War and then go shopping. We cannot simply have the only people sacrificing in America those in the frontlines of Iraq. This is a tough battle, and the President of the United States cannot fight it on the cheap. We need to face the difficulty in Iraq straightforward and have the tenth thing we need, and then I will yield.

We need something we have not had for 1½ years now. We need a plan for success in Iraq, and we still do not have one this late in the game. And the reason I say that is tonight, as we are sitting here, supposedly we are going

to have a turnover to a sovereign government in Iraq on June 30 and no one has a clue who they will be, no one has a clue what they will do, and the sad fact is the only thing this Iraq group is going to do is issue library cards because, frankly, we are running Iraq because we are the only force that is capable of doing that right now. We need a plan. We need some fresh thinking. I have some thoughts I will describe a little later.

I yield to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman from Washington for his usual insightful review of the salient points.

I think we should welcome back the original founder of Iraq Watch. He has been unable to attend the last several conversations because of other business, but he is certainly welcome here tonight, and that is the gentleman from Pennsylvania (Mr. HOEFFEL).

The events of the past several weeks have obviously been very disturbing in terms of what has occurred in the prison facility, Abu Ghraib. And I think every American feels a sense of profound, profound shame, and there has been much talk and much criticism.

I found a story that was reported today in the Washington Times and the headline reads "Outrage Erodes Morale of Troops." And there were comments by some of our colleagues from the other side of the aisle. One was made by the gentleman from Texas (Mr. DELAY), the House majority leader, which I will not even address because the gentleman from Texas (Mr. DELAY) has a proclivity to make statements that some describe as over the top. But the gentleman from California (Mr. HUNTER), the Chairman of the House Committee on Armed Services, whom I think we all respect, the report stated that he blamed Democrats who have been harshly critical of the war effort for eroding troop morale. The quote is, "I'm concerned that a number of Members of Congress have lost their sense of balance. They think their role here is to bash the American military. It is demoralizing for the troops."

Clearly, it has never been the intention of any individual who serves in this House, be he or she Republican or Democrat, to erode morale or to bash the military. I do not think anyone in any way wishes to denigrate the commitment and the contribution and the manner with which our military overall has conducted itself. But at the same time I think that the chairman has it wrong. It is not Democrats. There are a number of Republicans, and he should be aware of that, that have criticized the so-called post-major combat phase of this adventure for some time now. One only has to watch and observe the Monday morning TV programs.

But the reality is that morale has been low among our military for some time, not because of criticism of the civilian leadership of the Pentagon, the

Department of Defense, Mr. Rumsfeld, Mr. Wolfowitz, Mr. Feith, and including the Vice President of the United States, who is described in a recent book as suffering from war fever in terms of his obsession about invading Iraq. I think it is rather interesting that this poster I have here which is back in November 2003, a Newsweek cover that states "How Dick Cheney Sold the War." It is clearly true, given what we know now, that he had great influence in terms of advancing the military invasion of Iraq by the American military.

But now to go back to the morale issue, there was an interesting story, and maybe the chairman of the Committee on Armed Services is unaware of this, but it was reported last Sunday in the Washington Post, and the title is "Dissension Grows in Senior Ranks on War Strategy."

"Deep divisions are emerging at the top of the U.S. military over the course of the occupation of Iraq, with some senior officers beginning to say that the United States faces the prospect of casualty for years, without achieving its goal of establishing a free and democratic Iraq."

These are not Members of the Democratic Party in Congress. These are not Members of the Republican Party in Congress. This is senior military personnel.

"Army Major General Charles Swannack, Jr., the commander of the 82nd Airborne Division, who spent much of the year in western Iraq, said that he believes that at the tactical level at which fighting occurs, the U.S. military is still winning, but when asked whether he believes the United States is losing he said, 'I think strategically, we are.'"

"Army Colonel Paul Hughes, who last year was the first director of strategic planning for the U.S. occupation authority in Baghdad, said he agrees with that view and noted that a pattern of winning battles while losing a war characterized the U.S. failure in Vietnam."

These are senior members of the military establishment in this country.

□ 2340

This is not about partisanship. This is criticism coming from the military itself regarding the lack or the incompetence, if you will, of the civilian leadership that currently resides in the Department of Defense.

Colonel Hughes went on to note that he lost a brother in Vietnam. "I promised myself when I came on active duty that I would do everything in my power to prevent that sort of strategic loss from happening again. Here I am, 30 years later, thinking we will win every fight and lose the war because we don't understand the war we are in."

They are worried. This is the senior American military speaking. They are worried by evidence that the United States is losing ground with the Iraqi public.

Some officers say the place to begin restructuring U.S. policy is by ousting Defense Secretary Donald Rumsfeld, whom they see as responsible for a series of strategic and tactical blunders over the past year.

Several of those interviewed said a profound anger is building within the Army at Rumsfeld and those around him. A senior general at the Pentagon said he believes the United States is already on the road to defeat. His quote is, "It is doubtful we can go on much longer like this. The American people may not stand for it, and they should not." This is a senior general at the Pentagon.

I hope that the Republican chair of the Committee on Armed Services has an opportunity to read this particular report that was in the Washington Post last Sunday. He should not blame Democrats or any elected official for ever eroding the morale of the troops. We stand by the troops, but we do not stand by a policy that no one can understand.

As to who is to blame, this general pointed directly at Rumsfeld and Deputy Defense Secretary Paul Wolfowitz. "I do not believe," and this is his quote, "we had a clearly defined war strategy and end-state and exit strategy before we commenced our invasion."

Mr. INSLEE. Reclaiming my time, I just wanted to note, following the horrendous situations in our prison camps, a lot of folks thought the only reason people were calling for the Secretary of Defense's replacement was that problem. But that was only the straw that broke the camel's back. We had all these other 10 problems which I alluded to, all of which he was involved with. That is why many Members here believe that this Nation deserves better to serve our troops.

I would like to yield to the gentleman from Pennsylvania (Mr. HOFFEL), the originator of this, who shows great leadership on being able to tackle these very great problems in Iraq.

Mr. HOFFEL. Mr. Speaker, I compliment the gentleman on his 10 opinions that opened the Iraq Watch tonight. I think the gentleman is right on the money, and I appreciate his summarizing the problems that we face.

I want to thank the gentleman from Massachusetts (Mr. DELAHUNT), the new Chair of Iraq Watch, for his leadership and his stalwart support for what we are trying to do here.

The point that the gentleman from Massachusetts (Mr. DELAHUNT) makes is a very good one. There has been no criticism of the military in any of the comments that I have heard or read about in the papers. We are not criticizing the military. That is the one good thing about what is happening in Iraq, is the performance of our young men and women in uniform.

We are criticizing the civilian directors of the Defense Department. We are

criticizing the administration, the policymakers, the politicians.

I think we should criticize not just Mr. Rumsfeld and Mr. Wolfowitz and Mr. Feith at the Department of Defense, but I would throw in George Tenet as well at the CIA. I do not think any President has ever received more bad information in our Nation's history than George Bush has received from George Tenet and Don Rumsfeld.

The information was wrong about weapons of mass destruction. I am summarizing what the gentleman from Washington (Mr. INSLEE) has already summarized. They were wrong about weapons of mass destruction. They were wrong that we could do this on the cheap. We did not send enough troops in to Iraq to stabilize the country, and General Shinseki was right and he was run out of the Army for telling the truth, that we needed several hundred thousand troops, not the 120,000 that Mr. Rumsfeld thought he could do this with.

If you will recall, in the spring of 2003 Mr. Rumsfeld said by August of 2003 we would only need 40,000 troops. There would be only 40,000 troops left four or five months after the invasion. Of course, in August of 2003 there were 120,000 troops. We are up to 135,000 troops now, and we still have not stabilized Iraq.

Look what that means. You cannot have reconstruction without security. You cannot have a transfer of government without security. You certainly cannot have elections without security. And we do not have security in Iraq. After all this time, we do not have stabilized conditions in Iraq.

Mr. DELAHUNT. If the gentleman will yield further, the much-heralded efforts to train Iraqis as far as police and a new Iraqi Army, you only have to go back two or three weeks to remember that headline that screamed out the new Iraq battalion would not accompany the U.S. Marines into combat in the City of Fallujah. So while the Secretary of Defense speaks about the training of some 70,000 personnel for security service, the truth is those that are adequately trained amount to only several thousand.

What we have here, what we have here is a failure of leadership, is a demonstration of incompetence unequalled in terms of my public life, and I have held elected office for some 30 years.

If you could bear with me for just one more moment, again, I want to come back to the military's perspective of the civilian leadership and what they are saying.

There was an editorial that appeared in the Army Times, the Marine Times, the Air Force Times and the Navy Times, and it was regarding the situation in the Iraqi prison. It is entitled "A Failure of Leadership At the Highest Levels."

I would remind those that are viewing our conversation this evening, this is not a partisan publication. This is a publication that covers the military

that in many respects represents the majority view of the military in this country.

"Around the halls of the Pentagon, a term of caustic derision has emerged for the enlisted soldiers at the height of the furor over the prison scandal, 'the six morons who lost the war.' Indeed, the damage done to the U.S. military and the Nation as a whole by the horrifying photographs of U.S. soldiers abusing Iraqi detainees at the notorious prison is incalculable.

"But the folks in the Pentagon are talking about the wrong morons. There is no excuse for the behavior displayed by soldiers in the now infamous pictures, and an even more damning reported by Major General Anthony Taguba. Every soldier should be ashamed. But while responsibility begins with the six soldiers facing criminal charges, it extends all the way up the chain of command to the highest reaches of the military hierarchy and its civilian leadership.

"The entire affair is a failure of leadership, from start to finish. From the moment they are captured, prisoners are hooded, shackled and isolated. The message to the troops, anything goes. In addition to the scores of prisoners who were humiliated and demeaned, at least 14 have died in custody in Iraq and Afghanistan. The Army has ruled at least two of these are homicides. This is not the way a free people keeps its captives or wins the hearts and minds of a suspicious world.

□ 2350

General Richard Myers, Chairman of the Joint Chiefs, also shares in the shame. Myers asked "60 Minutes" to hold off reporting news of the scandal because it could put U.S. troops at risk. But when the report was aired a week later, Myers still had not read Taguba's report which was completed in March. Secretary of Defense Donald Rumsfeld had also failed to read the report until the scandal broke in the media; but by then, of course, it was too late. The Army Times, the Marine Times, the Navy Times, and the Air Force Times are correct: it is a failure of leadership at the highest level.

Mr. INSLEE. Mr. Speaker, if the gentleman will yield for just a moment, and then I want to yield to the gentleman from Pennsylvania (Mr. HOFFEL). One of the unfortunate reasons there has been a failure here is that there is a persistent practice or habit in this administration to ignore a principle of leadership, which is to reward competence and to sanction incompetence, to reward those who are right and sanction those who are wrong, to reward those who tell the truth and sanction those who do less than that. And look what happens in this situation.

Let us compare those who were wrong to those who were right. Those who were right, General Shinseki, right about needing new troops, canned. General Zinni, who was right

about needing more armor and troops, canned. Ambassador Joseph Wilson, by the way, stood up personally to Saddam Hussein and saved hundreds of American lives to get them out of Iraq before the first Persian Gulf War, this guy has guts; he told the truth and pointed out that what the President told the American people about buying uranium from Niger was a falsehood, he told the truth, and they tried to destroy his wife's career in the CIA.

So we have three truth-tellers, all of them who were punished by the executive branch of the United States.

Now, look at the other three people. George Tenet, CIA, who, if there was a more massive failure of information in American history next to calling Benedict Arnold a good American, I do not know what it was; still on the job, has not been sanctioned. He has not lost an hour of vacation time. He does not have a pink slip, does not have a slap on the wrist, said by the President to be doing a great job, when we started a war based on false information.

Donald Rumsfeld, the man who ignored General Shinseki, ignored General Zinni, ignored the intelligence from Ambassador Joe Wilson, involved in a war where we have incompetent planning, failure of planning, and we are now in a deep morass in Iraq, called by the Vice President, and I want to quote here almost, the greatest Secretary of Defense America has ever seen.

Mr. DELAHUNT. That is just an unbelievable statement.

Mr. INSLEE. We have a different opinion. This gentleman has not been sanctioned. This gentleman has not lost an hour of overtime.

Mr. DELAHUNT. And that is leadership.

Mr. INSLEE. And if I can remember who the third one is, if I can read my notes here that I wanted to talk about. Help me out, gentlemen. Who is the third one I was thinking about here? The list goes on and on.

Mr. DELAHUNT. What the gentleman is basically saying is that loyalty is prized above competence.

Mr. INSLEE. Mr. Speaker, I wanted to make sure that we include this gentleman in this discussion: Assistant Secretary Paul Wolfowitz told this Chamber on repeated occasions he was dead right sure, not only that we would be greeted as the great liberators of the Mideast, spreading democracy through the Mideast, not only that that would happen but, bonus time, I say to my colleagues, the Iraq oil fields would pay for this whole thing. American taxpayers would not have to put out a dime for this. He came and told us he knew this was going to happen, we would not have to do anything with taxes, taxpayers would not have to pay a dime. If there has been a greater failure of analysis, I do not know what it could possibly be.

Now, what has the President done to the man who totally misled the United States Congress? On both sides of the

aisle, by the way, he told this to Republicans and Democrats. Nothing. So we have the three people who have gotten us into a war based on false information with lousy planning, with incompetent preparation for our troops, people losing their lives in Iraq who are greeted as the greatest civil servants in human history, and the three guys who told us the truth were fired, lost their jobs.

I yield to the gentleman from Pennsylvania.

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman. If we just focus on the prison scandal for a minute and see the failures of leadership there, as the gentleman from Massachusetts (Mr. DELAHUNT) has been talking about, there are not enough prison guards assigned to Abu Ghraib or I am sure to the other prisons that were running as a result of the Iraq war. There simply are not enough guards assigned. Those guards are not properly trained. That is abundantly clear. They are not properly supervised, and there is no accountability up the chain of command.

So we start off with a disaster waiting to happen. Then what does Secretary of Defense Rumsfeld do? Well, he ignores the Red Cross, who, apparently, for over a year, has been complaining about conditions and abusive activities in our prisons. He fails to respond. He does not read the report in a timely fashion that is finally done by his subordinate, and he does not tell his President what is at stake. He even hangs his own President out to dry who is embarrassed by the disclosure of this information to the media, rather than in the normal chain of communication between cabinet Secretary and President.

One more failure. I think we ought to stop talking about resignation. I do not think Donald Rumsfeld should be allowed to resign. He should be fired for his failures to inform and properly advise the President. And the reality is, we cannot stay the course in Iraq. We have to change the course in Iraq. We cannot keep doing what we are doing, because we are failing, and we cannot achieve our goals of creating a stable and a peaceful country with a representative form of self-government. We cannot do that with the level of insecurity and instability in Iraq today. We have to get more troops in there. There ought to be international troops, NATO, Arab nations, Western European nations. They have a bigger stake in a stable Iraq than we do. But right now, 90 percent of the troops, 90 percent of the money is American; and it is not working. We have to change our course.

Mr. DELAHUNT. Mr. Speaker, it is really time to be honest with the American people. As David Kay said, who was sent and appointed by this administration to conduct a search for the weapons of mass destruction, came back, said there are none, and implored the President, it is time to come clean with the American people. Otherwise,

he had grave concerns about our credibility all over the world.

It is like this administration is incapable, incapable of dealing with the truth. I do not think they intend to lie; I just do not think they can grasp reality. It is like again going back to the morale issue. In "Stars and Stripes," a magazine that is funded by the Pentagon, reported better than a year ago on the issue of morale of U.S. troops in Iraq: high-ranking visitors to the country, including Department of Defense and congressional officials, have said it is outstanding, but the "Stars and Stripes" itself, the magazine did a survey and concluded that some troops on the ground would beg to differ about what they call low morale on their part and on the part of their units.

So as a result, the Pentagon went and conducted a survey of troops, and it was reported again about a month ago in The Washington Post before the scandal broke out, and it concluded that a slim majority of Army soldiers in Iraq, 52 percent reported that their morale was low, and three-fourths of them said that they felt poorly led by their officers, according to a survey taken at the end of the summer and released yesterday by the Army.

Mr. INSLEE. Mr. Speaker, we have about 30 seconds, and I just wanted to wrap up and thank the gentleman for his work tonight. I just want to say one thing. One of the worst possible things that can happen to our soldiers is base the war on wishful thinking. And the failures we have been talking about tonight have largely occurred because of civilian decisionmakers who have based decisions on wishful thinking that are not in touch with the reality and the difficult situation in Iraq. We are very hopeful that this administration will start to recognize the challenges we have in Iraq and start listening to military advisers, rather than basing their decisions on the fantasy that they have that this can be done on the cheap. We have paid too dearly in blood for that misassessment, we have paid too dearly in treasure for that misassessment; and it is time for a fresh, new strategy in Iraq. Just sticking with the same old same old is a recipe for disaster.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. McNULTY (at the request of Ms. PELOSI) for today before 2 p.m. on account of a family emergency.

Mr. SCOTT of Georgia (at the request of Ms. PELOSI) for today after 3 p.m. and May 13 on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DEFAZIO) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. DAVIS of Tennessee, for 5 minutes, today.

Mr. MATHESON, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HOEFFEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

(The following Members (at the request of Mr. HENSARLING) to revise and extend their remarks and include extraneous material:)

Mr. GREEN of Wisconsin, for 5 minutes, May 13.

Mr. OSBORNE, for 5 minutes, May 13.

Mr. GARRETT of New Jersey, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, May 13.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BURGESS, for 5 minutes, today.

ADJOURNMENT

Mr. INSLEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until tomorrow, Thursday, May 13, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8120. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Mississippi Sound, Pascagoula, MS [COTP Mobile-04-007] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8121. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Hatha-way Highway 98 Bridge, Panama City, FL [COTP Mobile-04-008] (RIN: 1625-AA00) re-

ceived April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8122. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Bayou Teche, 2 miles south of the Nelson Bridge extending to 3 miles north of the Nelson Bridge, New Iberia, LA [COTP Morgan City-03-007] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8123. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Bayou Penchant, Amelia, LA [COTP Morgan City-03-008] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8124. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Houma Navigational Canal between the 2-Mile Board and the Cat Island Sea Buoy, Cocodrie, LA [COTP Morgan City-04-002] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8125. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; 50 feet North and South of the Burlington Northern Sante Fe (BNSF) Railroad Bridge, Morgan City Port Allen Landslide Route, Bayou Boeuf, Mile 1.5, Amelia, LA [COTP Morgan City-04-003] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8126. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Ouachita River, Mile Marker 168.0 to 168.7, Monroe, LA [COTP New Orleans-03-030] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8127. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Ouachita River, Mile Marker 109.70 to 110.20, Columbia, LA [COTP New Orleans-03-032] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8128. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Mile Marker 94.0 to 96.0, Above Head of Passes, New Orleans, LA [COTP New Orleans-03-033] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8129. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Lower Mississippi River Mile Markers 89.0 to 103.0 and 229.0 to 235.0, Above Head of Passes, LA [COTP New Orleans-03-035] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8130. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Treasure Chest Casino, Lake Pontchartrain, Kenner,

LA [COTP New Orleans-04-001] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8131. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; South Shore, Lake Pontchartrain, Metairie, LA [COTP New Orleans-04-002] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8132. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Mile 430.0 to Mile 0.0, Head of Passes, LA [COTP New Orleans-04-003] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8133. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Mile Marker 94.0 to 96.0, Above Head of Passes, New Orleans, LA [COTP New Orleans-04-004] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8134. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Inner Harbor Navigational Canal, New Orleans, LA [COTP New Orleans-04-005] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8135. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Krewe of Choctaw Boat Parade, Lower Mississippi River, Mile 94.8 to Mile 96.8, Above Head of Passes, New Orleans, LA [COTP New Orleans-04-006] (RIN: 1625-AA00) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8136. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757-200 and -200CB Series Airplanes [Docket No. 2000-NM-404-AD; Amendment 39-13551; AD 2004-07-07] (RIN: 2120-AA64) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8137. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9-15 Airplane [Docket No. 2003-NM-31-AD; Amendment 39-13552; AD 2004-07-08] (RIN: 2120-AA64) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8138. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9-14, DC-9-15, DC-9-15F, DC-9-31, DC-9-32, DC-9-32 (VC-9C), DC-9-32F, DC-9-32F (C-9A, C-9B), CD-9-33F, DC-9-34, and DC-9-34F Airplanes; and Model DC-9-21, DC-9-41, and DC-9-51 Series Airplanes [Docket No. 2003-NM-58-AD; Amendment 39-13548; AD 2004-07-04] (RIN: 2120-AA64) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8139. A letter from the Paralegal Specialist, FAA, Department of Transportation,

transmitting the Department's final rule—Airworthiness Directives; AeroSpace Technologies of Australia Pty Ltd Airplanes [Docket No. 2000-CE-43-AD; Amendment 39-13536; AD 2004-06-10] (RIN: 2120-AA64) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8140. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700& 701), and CL-600-2D24 (Regional Jet Series 900) Series Airplanes [Docket No. 2004-NM-41-AD; Amendment 39-13545; AD 2004-07-01] (RIN: 2120-AA64) received April 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. House Concurrent Resolution 414. Resolution expressing the sense of the Congress that, as Congress recognizes the 50th anniversary of the Brown v. Board of Education decision, all Americans are encouraged to observe this anniversary with a commitment to continuing and building on the legacy of Brown (Rept. 108-485). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MCHUGH (for himself, Mr. DAVIS of Illinois, Mr. TOM DAVIS of Virginia, Mr. WAXMAN, Mrs. MILLER of Michigan, Mr. BURTON of Indiana, Mr. SCHROCK, Mr. SHAYS, Mr. OWENS, Mrs. MALONEY, Mr. MICA, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Mr. PLATTS, Mr. CANNON, Mr. PUTNAM, Mr. DUNCAN, Mr. DEAL of Georgia, Ms. WATSON, Mr. LYNCH, Ms. NORTON, Mr. MURPHY, Mr. TURNER of Ohio, Mr. CARTER, Mrs. BLACKBURN, Mr. TIBERI, and Ms. HARRIS):

H.R. 4341. A bill to reform the postal laws of the United States; to the Committee on Government Reform.

By Mr. CHABOT (for himself, Mr. ROYCE, Mr. SHADEGG, and Mr. BRADY of Texas):

H.R. 4342. A bill to protect crime victims' rights; to the Committee on the Judiciary.

By Mr. NORWOOD (for himself, Mr. SAM JOHNSON of Texas, Mr. BALLENGER, Mr. DEMINT, Mr. ISAKSON, Mrs. BIGGERT, Mr. KELLER, Mr. WILSON of South Carolina, Mr. KLINE, Mr. CARTER, Mrs. MUSGRAVE, Mrs. BLACKBURN, Mr. BOEHNER, Mr. AKIN, Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, Mr. COBLE, Mr. DEAL of Georgia, Mr. DOOLITTLE, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. KINGSTON, Mr. LINDER, Mr. MILLER of Florida, Mr. OTTER, Mr. PENCE, Mr. SOUDER, Mr. VITTER, Mr. BARRETT of South Carolina, Mr. BROWN of South Carolina, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, and Mr. BURNS):

H.R. 4343. A bill to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election con-

ducted by the National Labor Relations Board; to the Committee on Education and the Workforce.

By Mr. FOLEY (for himself, Mr. HASTINGS of Florida, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 4344. A bill to authorize water resources projects for Indian River Lagoon-South and Southern Golden Gates Estates, Collier County, in the State of Florida; to the Committee on Transportation and Infrastructure.

By Ms. GINNY BROWN-WAITE of Florida (for herself and Mrs. DAVIS of California):

H.R. 4345. A bill to amend title 38, United States Code, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BISHOP of Georgia (for himself, Mr. SKELTON, Mr. EVANS, Mr. EDWARDS, and Mr. MURTHA):

H.R. 4346. A bill to amend title 10, United States Code, to clarify requirements relating to predeployment and postdeployment medical exams of certain members of the Armed Forces; to the Committee on Armed Services.

By Mr. HYDE (for himself, Mr. LAMPSON, Mr. LANTOS, Mr. CHABOT, Mr. GREENWOOD, Mr. HOUGHTON, Mr. MCHUGH, Mr. WOLF, Mr. BURTON of Indiana, Ms. HARRIS, Mr. FOLEY, Mr. KING of New York, Ms. JACKSON-LEE of Texas, Mr. GREEN of Texas, Mr. BOEHLERT, Mr. SHIMKUS, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. TURNER of Texas, Mr. FROST, Mr. MORAN of Virginia, and Mr. CARDOZA):

H.R. 4347. A bill to amend the International Child Abduction Remedies Act to provide that the National Center for Missing and Exploited Children and its employees, when carrying out activities delegated by the United States Central Authority under that Act, have the protections under the Federal Tort Claims Act, to amend title 28, United States Code, to give district courts of the United States jurisdiction over competing State custody determinations, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on International Relations, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BACA:

H.R. 4348. A bill to amend the Federal Credit Union Act to allow greater access to international remittance services, and for other purposes; to the Committee on Financial Services.

By Mr. BISHOP of New York (for himself and Mr. ISRAEL):

H.R. 4349. A bill to reinstate Department of Energy Order No. 202-03-2; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself, Mr. BROWN of Ohio, Mr. RANGEL, Mr. STARK, Mr. WAXMAN, Ms. PELOSI, Mr. GEORGE MILLER of California, Mr. PALLONE, Mr. ABERCROMBIE, Mr. ALLEN, Mr. BACA, Mr. BOUCHER, Mrs. CAPPS, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Florida, Ms. DEGETTE, Ms. DELAURO, Mr. DEUTSCH, Mr. DOYLE, Mr. EMANUEL, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GONZALEZ, Mr. GORDON, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. HINCHAY, Mr. HOFFEL, Ms. JACKSON-LEE of

Texas, Mrs. JONES of Ohio, Mr. KILDEE, Ms. KILPATRICK, Mr. KIND, Ms. LEE, Mr. LYNCH, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNUITY, Mr. MARKEY, Mr. MATSUI, Mr. MEEKS of New York, Mr. MENENDEZ, Mr. MOORE, Mr. MORAN of Virginia, Mr. NADLER, Mrs. NAPOLITANO, Mr. PASTOR, Mr. PAYNE, Mr. RODRIGUEZ, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. RUSH, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. SERRANO, Ms. SLAUGHTER, Ms. SOLIS, Mr. STRICKLAND, Mr. STUPAK, Mr. TIERNEY, Mr. WEINER, Mr. WYNN, Mr. JACKSON of Illinois, Mr. ANDREWS, Mr. LEVIN, Mr. KENNEDY of Rhode Island, Mr. OLVER, Mr. HOLT, Mr. KLECZKA, Ms. WATERS, Mr. BISHOP of New York, Ms. WOOLSEY, Mrs. DAVIS of California, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mr. HONDA, Mr. MICHAUD, Mr. ALEXANDER, Mr. WEXLER, Ms. LINDA T. SANCHEZ of California, Mr. DELAHUNT, Mr. CLAY, Mr. HOYER, and Mr. KUCINICH):

H.R. 4350. A bill to amend titles XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EMANUEL:

H.R. 4351. A bill to amend the Internal Revenue Code of 1986 to restrict the use of abusive tax shelters; to the Committee on Ways and Means.

By Mr. EMANUEL (for himself, Mr. BROWN of Ohio, Ms. LEE, Mr. LANTOS, Mr. MCGOVERN, Mr. ISRAEL, Mr. STARK, Ms. SCHAKOWSKY, Ms. HOOLEY of Oregon, Mr. GRIJALVA, and Ms. DELAURO):

H.R. 4352. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for the portion of employer-provided vacation flights in excess of the amount of such flights which is treated as employee compensation; to the Committee on Ways and Means.

By Mr. LATOURETTE:

H.R. 4353. A bill to require the Secretary of Housing and Urban Development to provide tenant-based rental housing vouchers for certain residents of federally assisted housing; to the Committee on Financial Services.

By Mrs. MALONEY (for herself, Ms. PRYCE of Ohio, Mr. WAXMAN, Mr. GRIJALVA, Mr. SERRANO, Mrs. JONES of Ohio, Ms. MILLENDER-MCDONALD, Ms. BALDWIN, Ms. CARSON of Indiana, Mr. GEORGE MILLER of California, Ms. ROYBAL-ALLARD, Ms. NORTON, Mrs. MCCARTHY of New York, Ms. BERKLEY, Ms. LOFGREN, Mr. FROST, Mr. GONZALEZ, Mr. KILDEE, Ms. SLAUGHTER, Ms. SCHAKOWSKY, Ms. DELAURO, Ms. LEE, Mr. HINCHAY, Mr. CASTLE, Mr. LANTOS, Mr. OWENS, Mrs. CAPITO, Ms. LINDA T. SANCHEZ of California, Mr. BRADY of Pennsylvania, Mr. VAN HOLLEN, Mr. SCHIFF, Mr. CROWLEY, Mr. NETHERCUTT, Mr. FORD, Mr. HASTINGS of Florida, Ms. ESHOO, Mr. STARK, Mr. CONYERS, Ms. WATERS, Mr. TOWNS, Ms. BORDALLO, and Ms. SOLIS):

H.R. 4354. A bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services; to the Committee on Energy and Commerce.

By Ms. LORETTA SANCHEZ of California (for herself, Mr. TURNER of Texas, Mr. MARKEY, Mr. DICKS, Ms. HARMAN, Mr. DEFAZIO, Mrs. LOWEY, Mr. ANDREWS, Ms. MCCARTHY of Missouri, Ms. JACKSON-LEE of Texas,

Mrs. CHRISTENSEN, Mr. LANGEVIN, Mr. MEEK of Florida, and Mr. CHANDLER): H.R. 4355. A bill to strengthen port security by establishing an improved container security regime, to expand on the Maritime Transportation Security Act of 2002, to strengthen the Coast Guard port security mission, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDLIN (for himself, Mr. PELOSI, Mr. RANGEL, Mr. DINGELL, Mr. STARK, Mr. BROWN of Ohio, Mr. PALLONE, Mr. WAXMAN, Mr. HOYER, Mr. MENENDEZ, Mr. BERRY, Mr. GEPHARDT, Mr. ROSS, Mr. MATSUI, Mr. STENHOLM, Mr. LAMPSON, Mr. HOFFEL, Mrs. JONES of Ohio, Mr. KILDEE, Mr. GRIJALVA, Mr. RUPPERSBERGER, Mr. McDERMOTT, Mr. TOWNS, Ms. SLAGHTER, Mr. MARKEY, Mr. LYNCH, Mr. CROWLEY, Ms. MILLENDER-McDONALD, Mr. BOUCHER, Mrs. CHRISTENSEN, Mr. JACKSON of Illinois, Ms. ROYBAL-ALLARD, Mr. RODRIGUEZ, Mr. NADLER, Mr. CONYERS, Ms. DeLAURO, Ms. KILPATRICK, Mr. SERRANO, Ms. LEE, Mr. EVANS, Mr. TIERNEY, Mr. ISRAEL, Ms. MCCOLLUM, Mr. LANTOS, Mr. GUTIERREZ, Ms. WATERS, Mr. ALEXANDER, Ms. WOOLSEY, Mrs. DAVIS of California, Ms. JACKSON-LEE of Texas, Mrs. MCCARTHY of New York, Mr. HINCHEY, Mr. ABERCROMBIE, Mr. VAN HOLLEN, Ms. LINDA T. SANCHEZ of California, Mr. EMANUEL, Mr. MOORE, Ms. CARSON of Indiana, Mr. STUPAK, Mr. BISHOP of New York, Mr. CASE, Mr. WEINER, Ms. SCHAKOWSKY, Ms. SOLIS, Mr. FROST, Mr. WEXLER, Mr. HOLT, Mr. CUMMINGS, Mr. CARDOZA, Mr. BISHOP of Georgia, Mr. ENGEL, Mrs. CAPPS, Mr. HONDA, Mr. SCHIFF, Mr. MICHAUD, Mr. DELAHUNT, Mr. CHANDLER, Mr. CLAY, Mr. OLVER, Mr. REYES, Mr. SCOTT of Georgia, Mr. ORTIZ, Mr. CAPUANO, and Mr. ALLEN):

H.R. 4356. A bill to amend the Internal Revenue Code of 1986 to provide tax subsidies to encourage small employers to offer affordable health coverage to their employees through qualified health pooling arrangements, to encourage the establishment and operation of these arrangements, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself, Mr. BROWN of Ohio, Mr. RANGEL, Mr. DINGELL, Mr. WAXMAN, Ms. PELOSI, Mr. GEORGE MILLER of California, Mr. PALLONE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ALLEN, Mr. BACA, Mr. BERRY, Mr. BISHOP of New York, Mr. BOUCHER, Mrs. CAPPS, Mr. CARDIN, Ms. CARSON of Indiana, Mr. CLAY, Mr. CROWLEY, Mrs. DAVIS of California, Ms. DeLAURO, Mr. DELAHUNT, Mr. DEUTSCH, Mr. EMANUEL, Mr. ENGEL, Mr. EVANS, Mr. FARR, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GORDON, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HINCHEY, Mr. HOFFEL, Mr. HOLT, Mr. HOYER, Mr. JACKSON of Illinois, Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KILDEE, Ms.

KILPATRICK, Mr. KLECZKA, Mr. KUCINICH, Mr. LANTOS, Ms. JACKSON-LEE of Texas, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY, Mr. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. McDERMOTT, Mr. MCGOVERN, Mr. McNULTY, Mr. MEEKS of New York, Mr. MENENDEZ, Mr. MICHAUD, Mr. NADLER, Mrs. NAPOLITANO, Mr. OLVER, Mr. OWENS, Mr. PASTOR, Mr. RODRIGUEZ, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SANDLIN, Ms. LINDA T. SANCHEZ of California, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. SERRANO, Ms. SLAGHTER, Ms. SOLIS, Mr. STRICKLAND, Mr. STUPAK, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. TOWNS, Mr. VAN HOLLEN, Ms. WATERS, Mr. WEINER, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 4357. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to provide access to Medicare benefits for individuals ages 55 to 65, to amend the Internal Revenue Code of 1986 to allow a refundable and advanceable credit against income tax for payment of such premiums, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, Mr. BLUNT, Mr. MOORE, Mr. CLAY, Mr. GRAVES, Mrs. EMERSON, Mr. GEPHARDT, and Mr. AKIN):

H. Con. Res. 421. Concurrent resolution recognizing the Liberty Memorial Museum in Kansas City, Missouri, as "America's National World War I Museum", and for other purposes; to the Committee on Armed Services.

By Ms. MCCOLLUM:

H. Res. 639. A resolution condemning the abuse of Iraqi prisoners at Abu Ghraib prison, urging a full and complete investigation to ensure justice is served, and expressing support for all Americans serving nobly in Iraq; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BELL (for himself, Mr. McDERMOTT, Ms. MILLENDER-McDONALD, Mr. STARK, Mr. NADLER, Mr. GRIJALVA, Ms. WOOLSEY, Mr. BLUMENAUER, Ms. ESHOO, Mr. BERMAN, Mr. HOFFEL, Ms. MCCOLLUM, Ms. KAPTUR, Mr. ACKERMAN, Mr. FARR, Mr. OBERSTAR, Ms. JACKSON-LEE of Texas, Mr. TOWNS, Mr. PAYNE, Ms. CORRINE BROWN of Florida, Mr. LANTOS, Ms. SCHAKOWSKY, Mr. DELAHUNT, Ms. LEE, Mr. MARKEY, Mr. FATTAH, Mr. VAN HOLLEN, Mr. SANDERS, Mr. OLVER, Mrs. MALONEY, Mr. MCGOVERN, Mr. STRICKLAND, Ms. WATSON, Mr. WAXMAN, Mr. BRADY of Pennsylvania, Ms. MAJETTE, Mr. WEXLER, and Mr. CONYERS):

H. Res. 640. A resolution of inquiry requesting that the Secretary of Defense transmit to the House of Representatives before the expiration of the 14-day period beginning on the date of the adoption of this resolution any picture, photograph, video, communication, or report produced in conjunction with any completed Department of Defense investigation conducted by Major General Anto-

nio M. Taguba relating to allegations of torture or allegations of violations of the Geneva Conventions of 1949 at Abu Ghraib prison in Iraq or any completed Department of Defense investigation relating to the abuse or alleged abuse of a prisoner of war or detainee by any civilian contractor working in Iraq who is employed on behalf of the Department of Defense; to the Committee on Armed Services.

By Mr. PLATTS:

H. Res. 641. A resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. SNYDER.
H.R. 284: Mr. LATHAM.
H.R. 290: Mrs. BLACKBURN and Mr. HALL.
H.R. 434: Mr. BRADLEY of New Hampshire, Mr. JENKINS, and Mr. MORAN of Kansas.
H.R. 548: Mr. ABERCROMBIE.
H.R. 571: Mr. NETHERCUTT and Mr. PASTOR.
H.R. 573: Mr. CASE.
H.R. 594: Mrs. CHRISTENSEN, Mr. TANCREDO, Mr. REGULA, and Mrs. LOWEY.
H.R. 716: Mr. RODRIGUEZ.
H.R. 745: Mr. COOPER.
H.R. 781: Mr. PETERSON of Minnesota, Mr. MICHAUD, Mr. RAMSTAD, Mr. MCGOVERN, Mr. MEEHAN, and Mr. TIBERI.
H.R. 806: Mr. SERRANO.
H.R. 821: Mr. TIERNEY.
H.R. 839: Mr. SPRATT, Ms. BALDWIN, Ms. MAJETTE, Mr. PASTOR, Mr. SENSENBRENNER, Mr. KIND, Mr. JONES of North Carolina, Ms. ROS-LEHTINEN, Mr. BOUCHER, Mr. McINTYRE, and Mr. OSBORNE.
H.R. 857: Mr. GILLMOR.
H.R. 970: Mr. LEWIS of Kentucky.
H.R. 976: Mr. SNYDER.
H.R. 1004: Mr. OLVER.
H.R. 1051: Mr. DEFazio.
H.R. 1083: Mr. ADERHOLT and Mr. NETHERCUTT.
H.R. 1120: Mr. GRIJALVA.
H.R. 1155: Mr. PETERSON of Minnesota, Mr. ANDREWS, Mr. BASS, Mr. BRADLEY of New Hampshire, and Mr. MICHAUD.
H.R. 1160: Mr. CAPUANO.
H.R. 1200: Mr. JONES of Ohio.
H.R. 1205: Mr. WEINER, Mr. ORTIZ, Ms. CORRINE BROWN of Florida, Mr. LYNCH, and Mr. RUSH.
H.R. 1206: Mrs. MUSGRAVE.
H.R. 1222: Mr. ROGERS of Kentucky.
H.R. 1229: Mr. BISHOP of Utah and Mr. ISAKSON.
H.R. 1311: Mr. GALLEGLY, Mr. CLYBURN, Mr. ENGEL, Mr. DAVIS of Tennessee, BRADLEY of New Hampshire, and Mr. BARRETT of South Carolina.
H.R. 1359: Mr. STRICKLAND.
H.R. 1483: Mr. SERRANO.
H.R. 1567: Mr. MICA.
H.R. 1684: Mr. DAVIS of Florida, Mr. CASE, and Mr. HASTINGS of Florida.
H.R. 1700: Mr. WAMP, Mr. BURTON of Indiana, and Mr. HINCHEY.
H.R. 1734: Mr. LAMPSON, Mr. BOEHLERT, Mr. BARTLETT of Maryland, and Mr. BELL.
H.R. 1775: Mr. HOSTETTLER.
H.R. 1824: Mr. McINTYRE and Mr. WELLER.
H.R. 1919: Mr. PALLONE, Mrs. MUSGRAVE, and Mr. GREENWOOD.
H.R. 2037: Ms. CORRINE BROWN of Florida.
H.R. 2042: Mr. MENENDEZ.
H.R. 2217: Mr. SERRANO.
H.R. 2379: Mr. HINOJOSA.
H.R. 2513: Mr. CHANDLER.
H.R. 2674: Mr. DOYLE, Mr. RODRIGUEZ, and Mr. GRIJALVA.

H.R. 2747: Mr. MOORE and Mr. NETHERCUTT.
H.R. 2900: Mr. BROWN of South Carolina.
H.R. 2950: Mrs. BONO, Mr. SESSIONS, and Mr. BOEHNER.
H.R. 2968: Mr. LAHOOD.
H.R. 3142: Mr. CONYERS.
H.R. 3178: Mr. UPTON, Mr. MILLER of Florida, and Mr. NADLER.
H.R. 3213: Mr. COLLINS.
H.R. 3340: Mr. HYDE, Mr. CRANE, and Mr. KIRK.
H.R. 3356: Mr. MILLER of Florida.
H.R. 3425: Mr. MATSUI.
H.R. 3441: Mr. WHITFIELD, Mr. WEXLER, Mr. TURNER of Texas, and Mr. WU.
H.R. 3458: Mr. SANDERS and Ms. NORTON.
H.R. 3473: Mr. SANDLIN and Mr. CASE.
H.R. 3476: Mr. BISHOP of New York and Mr. MEEHAN.
H.R. 3523: Mr. GREEN of Texas, Mr. STUPAK, and Mr. BRADY of Pennsylvania.
H.R. 3634: Mrs. MCCARTHY of New York, Mrs. CHRISTENSEN, Mr. MOLLOHAN, and Mr. GREEN of Texas.
H.R. 3660: Mr. RYAN of Ohio and Mr. ANDREWS.
H.R. 3705: Mr. FRANK of Massachusetts.
H.R. 3707: Mr. DOYLE, Mr. WOLF, Mrs. CAPPS, Mr. FARR, Mr. OBERSTAR, Mr. CARSON of Oklahoma, and Ms. CORRINE BROWN of Florida.
H.R. 3722: Mr. TANCREDO, Mr. JONES of North Carolina, and Mr. GARRETT of New Jersey.
H.R. 3729: Mrs. MCCARTHY of New York, Mr. MOORE, Mr. HOLDEN, Mr. ROTHMAN, Mr. NEAL of Massachusetts, Mr. LYNCH, Mr. WAMP, Mr. EHLERS, and Mr. BALLANCE.
H.R. 3763: Mr. UPTON and Mr. OSBORNE.
H.R. 3776: Mr. CARDIN.
H.R. 3802: Mr. HOLT, Mrs. JOHNSON of Connecticut, and Mr. BEREUTER.

H.R. 3831: Ms. WOOLSEY.
H.R. 3865: Mr. DEFAZIO.
H.R. 3884: Mr. RODRIGUEZ.
H.R. 3951: Mr. COSTELLO.
H.R. 3965: Mr. KUCINICH.
H.R. 4033: Mr. MILLER of North Carolina.
H.R. 4051: Mr. BOUCHER, Ms. LOFGREN, and Mr. BISHOP of New York.
H.R. 4056: Mr. BURGESS.
H.R. 4064: Mr. HEFLEY, Mr. HALL, Mr. RAMSTAD, Mr. BURTON of Indiana, Mr. JENKINS, and Mr. GUTKNECHT.
H.R. 4065: Mrs. MUSGRAVE.
H.R. 4082: Mr. FALCOMA-VAEGA.
H.R. 4096: Mr. GREEN of Wisconsin and Ms. MILLENDER-MCDONALD.
H.R. 4103: Mr. WEINER.
H.R. 4111: Mr. PETERSON of Minnesota.
H.R. 4113: Mr. NETHERCUTT, Mr. OTTER, Mr. HOLT, and Mr. TERRY.
H.R. 4116: Mr. ABERCROMBIE.
H.R. 4130: Mr. GREENWOOD, Mr. BLUM-ENAUER, Mr. PRICE of North Carolina, and Mr. GRIJALVA.
H.R. 4143: Mr. RUPPERSBERGER.
H.R. 4175: Mr. FILNER, Mr. GUTIERREZ, Mr. HOLDEN, Mr. BRADY of Pennsylvania, Mr. GRIJALVA, and Mr. RODRIGUEZ.
H.R. 4183: Mr. BOUCHER and Mr. SKELTON.
H.R. 4190: Mr. NEAL of Massachusetts.
H.R. 4207: Mr. ISRAEL, Mr. DOGETT, and Mr. JACKSON of Illinois.
H.R. 4214: Mr. SHIMKUS, Mrs. MUSGRAVE, Mr. CRANE, Mr. BURR, Mr. FEENEY, Mr. RENZI, and Mr. GERLACH.
H.R. 4229: Mr. PALLONE, Ms. BORDALLO, Mr. WYNN, and Mr. BOUCHER.
H.R. 4249: Mr. SHERMAN, Mr. HONDA, Mr. LANTOS, Mr. McDERMOTT, Mrs. TAUSCHER, Ms. LEE, Ms. ESHOO, and Mr. GRIJALVA.
H.R. 4275: Mrs. JO ANN DAVIS of Virginia, and Mr. KING of New York.

H.R. 4280: Mr. MANZULLO, and Mr. PLATTS.

H.J. Res. 28: Mr. FATTAH, Ms. KILPATRICK, Ms. NORTON, Mr. SCOTT of Virginia, Ms. WATERS, and Ms. MILLENDER-MCDONALD.

H.J. Res. 29: Mr. BISHOP of Georgia, Mr. SCOTT of Virginia, and Ms. WATERS.

H.J. Res. 30: Mr. BISHOP of Georgia, Mr. FATTAH, Mrs. JONES of Ohio, Ms. KILPATRICK, Ms. NORTON, Mr. SCOTT of Virginia, Ms. WATERS, and Ms. MILLENDER-MCDONALD.

H. Con. Res. 360: Mr. CAPUANO, Ms. LOFGREN, Mr. GRIJALVA, Mr. FROST, Mr. DAVIS of Alabama, Mr. FILNER, Mr. CUMMINGS, Mr. JACKSON of Illinois, Mr. PAYNE, Ms. KILPATRICK, Mr. BISHOP of Georgia, Mr. SCOTT of Georgia, Mr. WYNN, Mr. CLAY, Ms. WATSON, Mr. KENNEDY of Rhode Island, Mr. BALLANCE, Mr. CLYBURN, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MAJETTE, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. WATT, Mr. UPTON, Mr. HYDE, Mr. BRADY of Pennsylvania, Mr. MOORE, Mr. TURNER of Texas, Mr. SERRANO, and Mr. GUTIERREZ.

H. Con. Res. 378: Mr. BURR, Mr. BROWN of Ohio, Ms. BERKLEY, Ms. SOLIS, and Mr. PLATTS.

H. Con. Res. 384: Mr. WAXMAN.

H. Con. Res. 394: Mr. SCOTT of Virginia.

H. Con. Res. 414: Ms. PRYCE of Ohio.

H. Res. 466: Mr. PLATTS and Mr. PASTOR.

H. Res. 567: Mr. KILDEE, Mr. DAVIS of Tennessee, Mr. SCHIFF, Mr. CAMP, and Mr. SHAYS.

H. Res. 621: Mr. TURNER of Texas.